DOCUMENT RESUME

ED 409 295 SP 037 420

AUTHOR Livingston, Lynn M.
TITLE The Landscape Transformed: A Law-Related Interdisciplinary Approach to Multicultural Education. A Study for the Klingenstein Program.
PUB DATE 8 May 95
NOTE 101p.
PUB TYPE Guides - Classroom - Teacher (052) -- Reports - Descriptive (141)
EDRS PRICE MF01/PC05 Plus Postage.
DESCRIPTORS Civil Liberties; Civil Rights; *Constructivism (Learning); Cultural Differences; Curriculum Development; Educational Philosophy; *Environmental Education; Global Approach; Humanistic Education; *Integrated Curriculum; Interdisciplinary Approach; *Law Related Education; Models; *Multicultural Education; Private Schools; Questioning Techniques; Reflective Teaching; Secondary Education; Teaching Guides

ABSTRACT

This project paper for the 1994-95 Klingenstein Fellows Program at Teachers College, Columbia University (New York), examines the philosophical and pedagogical underpinnings of an interdisciplinary law-related curriculum for secondary students. The proposed interdisciplinary law-related curriculum focuses on issues of human rights, civil liberties and environmental justice to advance multicultural and global perspectives necessary for citizens of the 21st century. Its goals are for students to be comfortable with cultural diversity, work to achieve social justice internationally, and advance social inclusion of diverse groups within our pluralistic democracy. The curriculum is based on constructivist principles and is intended to provide students opportunities to examine real-life problems in anchored instructional situations; to develop reflective skills, attitudes, and values; and to use their intellectual knowledge in moral, ethical, or political contexts. Part 1 of this paper presents the philosophical and pedagogical rationale for the proposed curriculum. Part 2 offers curricular suggestions organized around essential questions and suggested readings for a proposed Human Rights and Civil Liberties course outline and a proposed Environmental Justice course. It also describes specific techniques to encourage constructivist inquiry and implementation of many of the proposed curriculum s components at the Fieldston School, an independent school in New York City. Sample case studies are appended. (Contains 60 references.) (JLS)

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THE LANDSCAPE TRANSFORMED: A LAW-RELATED INTERDISCIPLINARY APPROACH TO MULTICULTURAL EDUCATION

A STUDY FOR THE KLINGENSTEIN PROGRAM

Professor Pearl Kane

Lynn M. Livingston

Klingenstein Fellow

1994-95

May 8, 1995

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Project Resume

AUTHOR: Lynn M. Livingston, Klingenstein Fellow, The Fieldston School, Riverdale, New York 10471

TITLE: The Landscape Transformed: A Law-Related Interdisciplinary Approach to Multicultural Education

INSTITUTION: Klingenstein Center, Teachers College, Columbia University, New York, NY

DATE: May 8, 1995

ABSTRACT: This project paper for the 1994-95 Klingenstein Fellows Program at Teachers College, Columbia University, examines the philosophical and pedagogical underpinnings of an interdisciplinary law-related curriculum that focuses on issues of human rights, civil liberties and environmental justice to advance certain multicultural and global perspectives necessary for students and citizens of the 21st century. Demographic changes in the wider society, as well as in the student bodies of independent schools, impel a re-examination of what and how we are teaching. If we are to serve all of our students, we must enhance their ability to navigate comfortably across borders of diverse cultures and socioeconomic, sociopolitical, linguistic, gender and structural divides. Students should be comfortable with cultural diversity, work to achieve social justice here and abroad, and advance the social cohesion and inclusion of diverse groups within our pluralist democracy. Students should be comfortable dealing with ambiguity, complexity and difference. They should understand how complex physical, biological, economic, political and communication systems interrelate and why problems often arise that combine several of these dimensions.

A law-related curriculum that focuses on human rights, civil liberties and environmental stewardship can help students integrate their thinking by using insights from many, now separated, disciplines. If taught in a constructivist manner, a law-related inquiry offers many opportunities for students to examine real-life problems in anchored instructional situations; to develop reflective skills, attitudes and values; and to use their intellectual knowledge in active moral, ethical and political contexts. This law-related approach should encourage development of a sense of active agency in students, a respect for multiple perspectives and an appreciation of our fellow human beings who, though different or often silenced, have ideas worth examining.

In the second part of this paper using a law-related approach to global, multicultural education, the author outlines certain "essential questions" to guide students in examining issues of human rights, civil rights and environmental justice. An extensive list of essential questions, legal cases, sources of information and some sample case studies are included to make this approach clear to the reader.

Acknowledgements

This project is in partial fulfillment of the Esther A. and Joseph Klingenstein Fellows Program, Teachers College , Columbia University, New York, April 1995.

I would like to thank the Board, Administration, Faculty, Staff and Students of the Fieldston School for their support and encouragement of this year of study. I would also like to thank Professor Pearl Kane, the Klingenstein Staff, and John Klingenstein and Claire List of the Klingenstein Foundation for making this year such a special one.

I am deeply grateful for having had the opportunity to know and study with some extraordinary and gifted teachers at Teachers College, Columbia and Barnard Colleges, and the the Columbia University School of Law:

Louis Henkin
Maxine Greene
Pearl Kane
Rosalind Rosenberg
Alan Weinstein

I would especially like to thank the 1995 Klingenstein Fellows for their good humor, their insight, their help and their friendship. It has been a privilege to know and work with such dedicated teachers. I have learned a great deal from and with them.

John Beall
Richard Beaton
James Handrich
Alan James
Steven Kramer
John Leistler
Michael O'Toole
Teddy Reynolds
Clayton Squire
Stephen Thomas

Lastly, I would like to thank my husband Bob and my children, Jennifer and Douglas, for all the love, patience and encouragement they have given me over the years.

Whatever befalls the earth, befalls the sons of the earth. Man did not weave the web of life; he is merely a strand on it. Whatever he does to the web, he does to himself.

Chief Seattle, 1854

"We have met the enemy, and he is us."
Pogo

"No man is an island, entire of itself; every man is a piece of the continent, a part of the main; if a clod be washed away by the sea, Europe is the less, as well as if a manor of thy friends or of thine own were; any man's death diminishes me because I am involved in mankind; and therefore never send to know for whom the bell tolls; it tolls for thee.

John Donne

"Each time a man stands up for an idea, or acts to improve the lot of others, or strives out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest walls of oppression and resistance. . . . Few are willing to brave the disapproval of their fellows, the censure of their colleagues, the wrath of their society. Moral courage is a rarer commodity than bravery in battle or great intelligence. Yet is the one essential, vital quality for those who seek to change a world that yields most painfully to change.

Robert F. Kennedy

Preface

Teaching at the Fieldston School for the past 12 years has been an exciting and meaningful experience. Students are eager for knowledge and responsive to care and concern from adults whom they trust and respect and who trust and respect what they bring to the process of constructing their own education. The mission of the Ethical Culture Fieldston Schools remains vitally connected to the vision of Felix Adler:

> The Ethical Culture Fieldston Schools provide children with a rigorous and humanistic education as preparation for becoming thinking, responsible, caring adults. We actively engage a diverse and pluralistic student body in a rich and challenging academic, moral and aesthetic education. We integrate classroom work with hands-on experience and offer a developmentally appropriate curriculum for both mind and body. We encourage our students to become independent thinkers, lifetime learners, and active participants in a democratic society.

Although the Midtown School, Fieldston Lower and Fieldston accomplish many of these goals, I have come to believe that we need to broaden the last sentence of the mission statement to include active participation in "a world of limited natural resources and characterized by ethnic diversity, cultural pluralism and increasing interdependence." I believe it is necessary to reexamine *what* and *how* we are teaching our students to deal with the challenges of the future. The following project is a partial and preliminary result of my thinking on these issues.

The Klingenstein Fellowship program has given me and ten other independent school teachers from around the globe a great opportunity to reflect on our teaching. The year has been both reaffirming and transformational. It has certainly re-energized my intellectual batteries, but it has also recalled me to the "calling" of teaching. I have been opened to new experiences and points of view and have come away with a desire to transform the landscape of my own teaching and open up a dialogue with my colleagues about the larger landscape of our school and its connection to a rapidly

changing world.

I have become more self-critical about my own teaching and wonder whether others at Fieldston share some of my concerns. Have we strayed from Adler's and Dewey's vision of placing students at the center of their own learning? Are we too worried about "coverage?" Do we use a "pedagogy of telling" more often than a "pedagogy of inquiry?" Can we better encourage Fieldston students to be more like the active, hands-on learners they were in the lower schools? Are we investigating important questions with our students or are there some topics which are basically "cluttering the curriculum?" Are we teaching students to analyze problems and generate solutions across disciplinary divides? Are we sharing curricular materials with students which encourage thinking carefully about multiple perspectives from other cultures? Are we serving all of our students from increasingly diverse racial, ethnic, economic and sociocultural backgrounds? Are we really open to multiple perspectives or do we suffer from "political correctness?" Are we engaging students in a dialogue of inquiry into important public concerns in the U.S. and the world? Can we more effectively incorporate ethical issues into all of our courses? Can teachers and students together create a more just and caring community in our school life and in active service to others?

This project is a preliminary response to these questions. It outlines a possible approach to encourage students to think carefully about important issues and act as morally responsible agents of change in a world of limited resources and incredible diversity. It also outlines a transformation of the approach I have traditionally used in the Law and Society course to incorporate a more global, multicultural approach that focuses on human rights and environmental stewardship. It may also open up possibilities for new courses and meaningful interdisciplinary cooperation with other colleagues.

Challenges of the Future

As we prepare our students to meet the challenges of the 21st century, educators need to reexamine the way we are teaching young people to function in an increasingly complex world. Students will be competing in a global economy, requiring knowledge, skills and attitudes for life in an interdependent world of limited natural resources. Within the United States, they will work in a multicultural society that reflects increasing diversity as power is extended to women, non-whites and new immigrant groups. Students will need to remain active, life-long learners in an era of rapid change.

Much of the urgency underlying recent increases in educational funding and interest in school reform reflects a fear that the United States is losing to other countries in what President Reagan in l986 called a "race to the future." [1] Much of that future has international and multicultural dimensions. In cooperation with other nations, the United States, under the leadership of all post-World War II presidents and the Congress, has been committed to participating in and giving leadership to the world of the future. With the end of the Cold War, the United States has emerged as the world's only remaining "super power." But are we truly powerful or are we becoming a "Goliath"--large, but fundamentally unable to project our power in ways that protect our vital interests? The United States still has immense military power, but many problems cannot be "solved" through an application of unilateral military might. Many issues we currently face are international in character--trade, environmental protection, human rights, and international security, for example. The international dimensions of our future have been manifested in heated public policy debates over

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[1] "The State of the Union," Address delivered before a joint session of the Congress by Pres.. Ronald Reagan, February 4, 1986, in Weekly Compilation of Presidential Documents, vol. 22, no.6, Washington, D.C.: U.S. Government Printing Office, Feb. 10, 1986, p.136.

the North Atlantic Free Trade Agreement (NAFTA), intervention in Haiti, rising concern over the influx of illegal immigrants into the United States, and fear that many American jobs are being exported to lower-wage cost areas in Asia or Latin America. Within the United States furious debates over the continuation of affirmative action and the denial of welfare, health and education benefits to legal as well as illegal immigrants reflect uneasiness about our increasingly pluralistic, multicultural American society.

Will our students be prepared to function in this new world? The 1983 report from the National Commission on Excellence in Education warned: "Our Nation is at risk. Our once unchallenged preeminence in commerce, industry, science and technological innovation is being overtaken by competitors throughout the world . . . We report to the American people that, while we can take justifiable pride in what our schools and colleges have historically accomplished and contributed to the United States and the well-being of its people, the educational foundations of our society are presently being eroded by a rising tide of mediocrity that threatens our very future as a Nation and a people." [2]

In 1986 the Carnegie Task Force on Teaching as a Profession called for a "rebuilding" of our educational system to meet these challenges, "If our standard of living is to be maintained, if the growth of a permanent underclass is to be averted, if democracy is to function effectively into the next century, our schools must graduate the vast majority of their students with achievement levels long thought possible for only the privileged few. The American mass education system, designed in the early part of the century for mass-production economy, will not succeed unless it not only raises but redefines the essential standards of excellence and strives to make quality

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[2] National Commission on Excellence in Education, A Nation at Risk: The Imperative for Educational Reform, Washington, D.C.: US Government Printing Office, April 1983, p. 5.

and equality of opportunity compatible with each other." [3]

Centers of power and wealth are shifting in profoundly challenging ways. Demographers, like Harold Hodgkinson at the Institute for Educational Leadership in Washington, D. C., inform us of the changing face of the world. A few key facts:

1. Nine of every ten children today are born in a developing country. Though 9 of 10 of these children die, declining birth rates in the Western world are resulting in a decline in the number of Caucasians in an already non-Caucasian world. By 2025, the percentage of the world that is Caucasian and Western will have dropped from 18% to 9% of the world's population
2. In Africa there are 500,000,000 people; 1 of every 8 people in the world is African
3. About one-fifth of the world's population is Muslim. Increasing numbers of Muslims are immigrating to the U.S.
4. The 11 largest nations in the year 2050 will include Nigeria, Pakistan, Indonesia, Bangladesh and Ethiopia.
5. In less than 10 years six of the ten largest cities in the world be in the Pacific--none will be in Europe or the U.S.
6. One-half of the world's population is Asian and half of the Asian population is Chinese.
7. Demographers project the world's population to be either 10 billion or 14 billion by the year 2030 depending on the success of population control efforts. Many respected environmentalists warn that the earth's resources cannot sustain 14 billion people. [4]

Indeed as Jesse Jackson indicated in his 1988 Democratic Convention speech in Atlanta, Georgia:

> Most of the world is Asian, brown, or black, non-Christian, female and poor. He is not Caucasian, Western, Christian, nor middle class. We must understand that the one-sixth of the world that has achieved a high standard of living, primarily the industrialized nations, has done so by controlling and already consuming one-half of the world's resources, many of which are not replenishable or at best not replenishable fast enough to sustain the earth's population growth." [5]

The face of America is changing dramatically. The white population in the U.S. is

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3 Task Force on Teaching as a Profession, A Nation Prepared: Teachers for the 21st Century, New York: Carnegie Forum on Education and the Economy, May 1986, p.21.

4 Harold Hodgkinson, All One System: Demographics of Education, Kindergarten through Graduate School, Washington, D.C.: Institute for Educational Leadership, Inc., 1985, pp.3-7.

5 Ibid.

aging and declining because of its comparatively low birthrate. Between 1971 and 1980 about 82% of legal immigrants to the U.S. came from Latin America and Asia. In the future people of color will make up a larger share of the U.S. work force. By the year 2000, 21.8 million of the 140.5 million in the U.S. labor force will be people of color. [6] By the year 2000, 50% of all urban school children will be from non-white ethnic and racial groups. California's elementary school population is already over 50% "minority." By 2000, 53 major American cities are likely to enroll a majority of "minority" children. About 600,000 legal immigrants enter America each year, almost entirely from Asia, South and Central America, the Caribbean, Africa and the Middle East. Children arrive from 70-80 countries and speak from 30-50 different languages. As Hodgkinson states, "from 1985 to the year 2000, we will add 2.4 million more Hispanic kids, 17 million more Black kids, and almost a half million 'other' minority youngsters (Asian, Native American, and Middle Eastern kids). That's a total of 4.5 million minority children, and we will add [only] 60,000 more white children." [7]

Over the past several decades, independent schools in the United States have accepted students whose racial and economic backgrounds differ from the upper middle class white families who have traditionally constituted independent schools. Although independent schools have not experienced demographic shifts with as much intensity as the public schools, educators in independent schools must also rethink what and how we teach our students. Historically, much of the curriculum in independent schools has been centered on the core values of the Western tradition. While this focus will and should remain very important, an overwhelmingly Eurocentric curriculum will no longer be adequate if we are to reflect the new multicultural reality of

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6 James A. Banks, "Education and Cultural Diversity in the United States," in Alex Fyfe and Peter Figueroa, ed., Education for Cultural Diversity: The Challenge for a New Era, London: Routledge, 1993, pp. 65-66.

7 G. Pritchy Smith, "Multicultural Reflections, Multicultural Education: Implications for the Culturally Responsive Teaching of All Our Children," in Rosa M. Duhon-Sells and Emma Thomas Pitts, ed., A Vision of Multicultural Education for the Year 2000, Lewiston, NY: The Edwin Mellen Press, 1994, p. 89.

our students and of American society and if we are to prepare all our students for their increasingly global futures. Traditionally, independent schools have said they are preparing leaders for the future. Today and in the future, leaders will have to be knowledgeable and comfortable in dealing with an interdependent, multicultural world. Students must be encouraged to develop cross-cultural competency; they must develop the attitudes, skills and abilities needed to operate effectively within and across their own ethnic groups.

How best to create these desirable attitudes, skills and abilities toward cultural diversity has been the subject of ongoing debate for years. Many curricular approaches have tried to focus on the interconnectedness and interdependence of human beings from different cultural backgrounds. Since 1900 these approaches have emphasized the interrelationship of human beings under the rubrics of comparative studies, international relations, world affairs, intergroup education, area studies, race relations, ethnic studies, peace and conflict studies, human rights education, international studies, intercultural studies, multicultural education, global education, world studies and most recently global multicultural education.

Although each of these labeled approaches stresses its own particular conceptual analysis, they all share many common aims. Unfortunately, the proponents of each "school of thought" have tended to emphasize their differences and not their similarities. Cooperation among and between these discrete approaches would greatly enhance the ability of schools to realize the following goal set in a 1982 National Council for the Social Studies Position Paper:

> to develop in youth the knowledge, skills and attitudes needed to live effectively in a world possessing limited natural resources and characterized by ethnic diversity, cultural pluralism, and increasing interdependence. [8]

[8] James Lynch, Multicultural Education in a Global Society, London: The Falmer Press, 1989, p. 13.

The lack of synergy among these approaches has undercut much-needed efforts to rethink our curricular purposes and strategies as the 21st century rapidly nears. There are compelling arguments for a renewed vision of multicultural education to prepare our students for the responsibilities of national and global citizenship.

1. We need to emphasize a multicultural education which engages issues of human rights (including issues of race, ethnicity, gender and sexual orientation) inside and outside the boundaries of the United States.

2. We need to recognize increased cultural diversity within the U.S. and learn to deal in creative terms with this diversity.

3. We need to learn from the policies and practices of other peoples and nations when we explore the proper balance between the rights of individuals and their responsibilities toward others.

4. We need to improve a sense of environmental stewardship by recognizing the interdependence of the earth's resources and its human communities in order to preserve this "common human heritage" for future generations.

5. We need to promote the peaceful resolution of conflict especially the kind of genocidal destruction recently seen in Bosnia and Rwanda, by creating an appreciation of our common humanity with others--at the community, national and international levels.

6. We need to educate students for active citizenship in their community, nation and the world by engaging cultural, social-economic and environmental dimensions of human life.

7. We need to emphasize the commonalities as well as the differences among people to broaden the multicultural approach beyond discrete ethnic studies, which have often focused on revitalizing pride in separate ethnic groups at the expense of social

cohesion in a pluralist society. [9]

Challenges of "New Students" in Independent Schools

Over the past decade the Fieldston School History Department, along with many of its independent school counterparts, has been broadening curricular offerings from what had been a largely Eurocentric focus. We have developed units on Africa, China, India and Latin America for inclusion in what had been a two-year Western Civilization course for eighth and ninth graders. However, we have not yet departed fully from the Eurocentric foundation of the course. The history department also offers advanced electives to junior and seniors on Russia, China, Japan, Africa, Latin America and the Middle-East. We teach electives in African-American history and Native American history. In addition, we have been expanding our emphasis on women's history and contemporary international studies in other course offerings.

While these electives have provided our older students with stimulating, intellectually challenging courses emphasizing multicultural and global concerns, there are also certain disadvantages. One drawback to this elective approach to multiculturalism and globalism is that it may not reach students who do not enroll in those courses. We have instituted a graduation requirement that all Fieldston students must take, in addition to one year of American history, another year of non-American history, but this standard does not require the study of a "non-Western" culture.

There is also a risk of "ghettoization" in that the "majority" students may not feel they are welcome in certain courses. For example, at the college level, disproportionately fewer men than women enroll in women's studies courses. At Fieldston we have noted that a disproportionately low number of white students enroll in the African-American history course, which is dominated by non-white students. Critics of the

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[9] Ibid., p. x.

"additive" approach have noted that one perceived goal of many ethnic studies courses is the correction of a poor self-image for a minority group, perceived to be underachieving in the "regular curriculum." While all children should feel a sense of self-worth and affirmation in their education, the Fieldston History Department does not view its electives as"curricular therapy," meant only for minority students. But if we feel these electives are valid and important courses for all students, we must ask why some of these courses are not chosen by our "majority" students. Do they avoid these courses because there are no Advanced Placement tests in these areas? Do students view these courses as too difficult because they deal with foreign cultures that are not as easily understood as our own" Western tradition? Do white students avoid the African-American history course because they feel it is not "real" history, i.e., history of a powerful group or because they are afraid of being in the "minority" in a classroom for once?

An overreliance on electives may mask the real dangers of allowing students in the majority white population to continue studying a traditional Eurocentric curriculum that has not been transformed to include multicultural content challenging racial, ethnic or gender stereotyping about who has made valuable contributions to the development of civilization. Indeed, the unintended outcome of a reliance on specialized electives may be a reinforcement of an "us versus them" perception in all groups of students. We do not want to exacerbate categorical distinctions between students of perceived "different kinds."

We can not pretend, however, that our students all come from the same world. Independent schools must recognize that our students have different voices, histories, languages, and ways of experiencing the world. We profess to be open to all viewpoints, but do our curricular choices and the way we teach our minority students send a less welcoming message? Educational researchers Patricia Phelan, Ann

Locke Davidson and Hanh Cao Yu have emphasized the importance of identifying

> features in school environments that aid or impede students in making the transition between their worlds and the world of school. . . We use the term 'world' to mean the cultural knowledge and behavior found within the boundaries of students' particular families, peer groups, and schools; we presume that each world contains values and beliefs, expectations, actions, and emotional responses familiar to insiders. [10]

Are we sensitive to the multiple worlds and the transitions our students make between and among their worlds? (See Figure A) Phelan, Davidson and Yu conclude that when boundaries ("real or perceived lines between worlds, settings or contexts") are perceived to be equal by the people in each setting, movement between worlds is relatively easy. However, borders are not neutral and when separate worlds are not perceived as equal, student movement and adaptation across boundaries may incur high social and psychological costs that may not be visible to teachers. Do independent schools help or hinder the engagement of our students as they navigate the boundaries between and across the worlds of family, school and peers? Are we helping our students negotiate successfully the psychosocial, sociocultural, socioeconomic, linguistic, gender and structural borders that may affect their ability to learn?

While cultural differences do not necessarily create barriers to school learning and may indeed be perceived as assets, it is important that schools honestly determine whether they signal that one set of cultural components is less valued than others. Do we create linguistic borders by signaling that mastery of standard English,while absolutely important in our society, is the only "acceptable" way of expressing oneself? Do we signal that only the contributions of Europeans are important in creating modern civilization? Do we inadvertently promote roles, aspirations or estimates of

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10 Patricia Phelan, Ann Locke Davidson and Hanh Cao Yu, "Students' Multiple Worlds: Navigating the Borders of Family, Peer, and School Cultures," in Patricia Phelan and Ann Locke Davidson, ed., Renegotiating Cultural Diversity in American Schools. New York: Teachers College Press, Columbia University, 1993, p. 53.

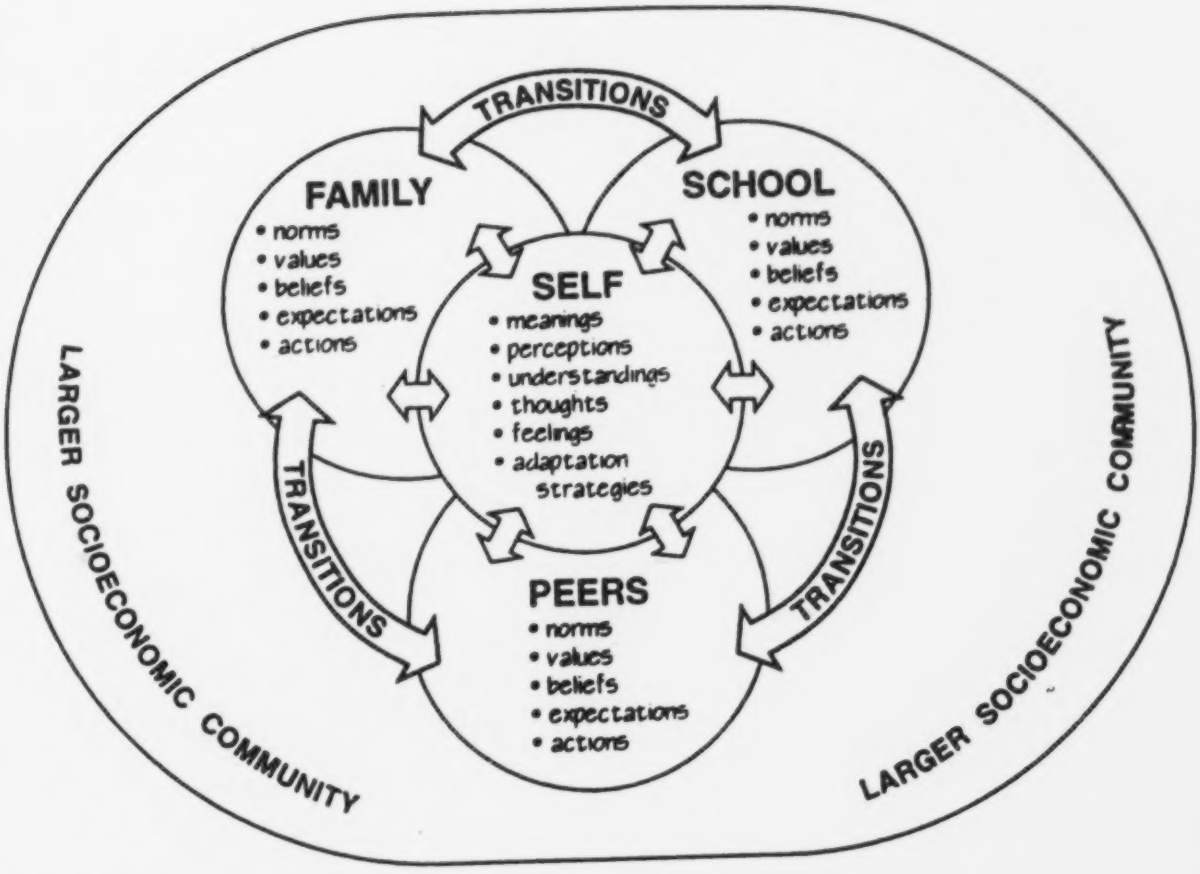

FIGURE A *The multiple worlds model.*

Patricia Phelan and Ann Locke Davidson, ed., Renegotiating Cultural Diversity in American Schools, New York: Teachers College Press, p. 56.

worth for women and members of minority racial or ethnic groups that differ from those we offer white males? These kinds of borders can be found

> in both the substance and the process of the educational experience--in the content of the curriculum (i.e., when the history and accomplishments of one group are fully or partially excluded from the curriculum), in pedagogical styles and methods (i.e., when teacher attention and encouragement are more frequently directed towards one group), and in attitudes and expectations (i.e., when the sensibilities, problems and assets of one group are viewed differently than those of the other). [11]

In assessing how well schools do in facilitating student learning across these borders, Phelan, Davidson and Yu suggest that it is necessary for teachers to recognize and identify where and when borders exist and the nature of the borders that all students must negotiate. While some students find a high degree of congruence between their worlds and negotiate smooth transitions, other students, especially minority students, face challenges in mediating their different worlds and manage border transitions less well. Some students manage to cross the borders between home and peer culture and school culture only at great cost. "[T]he conflicts between home and school can become a nightmare of contrasting demands that confuse or lead to rejection of the home culture or language, and even in some extreme cases to rejection of one's own self." [12] Some students live separate lives--conforming to the expectations in each of their various worlds. Others try to fuse a transcultural identity, drawing elements from each world to create an identity that transcends conventional expectations. Still other students disengage and withdraw from learning in school environments perceived as uncaring or hostile to their "home culture."

To help students remain engaged, Phelan, Davidson and Yu believe it is important that teachers attempt to understand their students' values, beliefs, expectations and

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[11] Ibid., p. 58.

[12] Ibid., p. 65.

normative ways of behaving. One of the best sources for understanding the home culture of students is their parents. In independent schools, there has traditionally been a very close link between the values of the parents and those of the school. However, as independent schools have accepted children from more diverse backgrounds, there is not always as close cultural congruence between school and home. While these "new parents" want to have the benefits of a rigorous independent school education for their children, they also demand that school practices support their cultural values or, at the very least, not undermine them. As Lisa Delpit writes in "The Silenced Dialogue: Power and Pedagogy in Educating Other People's Children":

> We must keep the perspective that people are experts on their own lives. There are certainly aspects of the outside world of which they may not be aware, but they can be the only authentic chroniclers of their own experience. We must not be too quick to deny their interpretations, or accuse them of "false consciousness." We must believe that people are rational beings, and therefore always act rationally. We may not understand their rationales, but that in no way militates against the existence of these rationales or reduces our responsibility to attempt to appreciate them. And finally, we must learn to be vulnerable enough to allow our world to turn upside down in order to allow the realities of others to edge themselves into our consciousness. [13]

Delpit is calling for a genuine openness to the points of views of those who have not enjoyed power in the past. She asks that teachers initiate this dialogue

> by seeking out those whose perspectives may differ most, by learning to give their words complete attention, by understanding one's own power, even if that power stems merely from being in the majority, by being unafraid to raise questions about discrimination and voicelessness with people of color, {or women or other traditionally silenced groups} and to listen, no, to *hear* what they say. [14]

This dialogue should open teachers to a reexamination of their pedagogical

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13 Lisa D. Delpit, "The Silenced Dialogue: Power and Pedagogy in Educating Other People's Children," in Lois Weis and Michelle Fine, ed., Beyond Silenced Voices: Class, Race and Gender in United States Schools, Albany, NY: State University of New York Press, 1993, p. 139.

14 Ibid.

techniques. However, Delpit believes that students from varied ethnic, racial or economic backgrounds must all be *taught* , not just made to feel good about themselves. Teachers "need to help students to establish their own voices" but also need "to coach those voices to produce notes that will be heard clearly in the larger society." [15] Command of formal English and skills of analysis are important for all students in our society, but Phelan, Davidson and Yu would add that students must also acquire competence in moving between different worlds in order to become effective learners, workers and adults in the 21st century. They analyze school practices which they believe mitigate against the development of intergroup understandings: tracking, exclusively teacher-centered, rote learning with little cooperative learning or chance to work together and discuss ideas. Even those students who are successful on tests may be harmed if they do not "acquire skills and strategies to work comfortably and successfully in divergent social settings and with people different than themselves." [16] To return to an earlier discussion point in this paper, it is the upper middle class white student, a distinct minority in the world today, who might *need* to take the African-American history course as much as the "minority" student:

> [S]tudents who are secure and comfortable within the bounds of their congruent worlds may have an especially difficult time connecting with peers unlike themselves. Many have little opportunity or reason to practice or acquire border crossing strategies. Distanced from students in other groups, it is these students who are particularly at risk for developing spurious ideas and stereotypes about others. . . Constantly reinforced for their 'on-track' behaviors, they can be quick to denigrate divergent actions by others." [17]

Teachers in independent schools will more effectively serve all students if, in addition to rethinking their pedagogical techniques to encourage students to work

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15 Ibid., p. 138.

16 Phelan, et. al., p. 85.

17 Ibid., p. 83.

together and solve problems jointly, they select curricular topics that promote inclusion of multiple perspectives and integrate issues of cultural diversity into all course offerings, not only electives. These are a few common overarching aims of this approach which could permeate many courses:

1) **the creative enhancement of cultural diversity** including an appreciation of difference and an ability to relate to other cultural groups;

2) **the achievement of social justice** in the form of equality of opportunity and an active commitment to combating prejudice

3) **the advancement of social cohesion and inclusion of diverse groups** by propagating a sense of shared values and rights as well as full access to social, political and economic resources and rewards. [18]

Education for a Pluralist and Historical Perspective

Underlying these aims is a belief in the value of pluralism. Pluralism recognizes and honors the right of others--individuals, groups, peoples, and nations--to think and act differently, to believe in different values. In the U.S. we say that we value freedom. If so, we should value pluralism because it implies that difference is a desirable and interesting manifestation of free people to choose themselves. Does support of pluralism undermine social cohesion and national unity? Perhaps, if the emphasis is only on what divides and separates one group from another. However, secure individuals and cultures should be able to interact peacefully and productively and adapt without necessarily losing their own identities. Unfortunately, in the past year a mood of xenophobia--a fear and resentment of the "foreign" or the "other"--has intensified across the U.S. In the depths of a severe recession and angry about the

[18] Lynch, p. 10.

high costs of coping with a huge influx of legal and illegal immigrants, California voters approved Proposition 187, which, if it withstands legal challenges, will deny health, welfare and educational benefits to illegal immigrants. Recently, as Congress worked to reform the welfare system, there have been attempts to deny welfare benefits even to legal immigrants. Indeed, long-term legal immigrants, fearful of the anger and intolerance being directed at them, have been applying for U.S. citizenship in increasing numbers. Demands to make English the official language have made headway in several states. In other states and cities, ballot initiatives are asking voters to rescind anti-discrimination laws protecting the rights of homosexuals and to make affirmative action programs in employment and education illegal.

How do we educate students to resist intolerance? How do we educate students to be comfortable with increasing diversity propelled by demographic and cultural change? Students, tapping the resources and insights of history, other social sciences, the humanities and science, should examine and be able to understand the dynamics of change through time. According to William McNeill in Mythistory and Other Essays, many of the major changes in the world have resulted from cross-cultural contacts:

> For whenever a person encounters something curious and new, and especially when the novelty also appears to be superior to what had been familiar before, the only intelligent response is to do something about it. One may try to appropriate the new thing and make it one's own by learning how to make and use it. . . . One can try to disregard the offending person and things, and hope they will not come again; or seek to drive them away by force. But to exclude a genuinely attractive novelty usually calls for strengthening local skills and institutions.[19]

Of course, cultures can and do come into conflict with others, but conflict does not always have to be destructive. As McNeill implies, conflict may well be creative and mutually productive. Difference and complexity do not automatically result in cross-

[19] William H. McNeill, Mythistory and Other Essays, Chicago: University of Chicago Press, 1986, p. 75.

cultural conflict or in a breakdown of social cohesion within a pluralist society. "The cohesion of a dynamic human society is not one of sameness, but one of mutual stimulus, counterpoint and interdependence. Frustration, alienation, conflict and a possible threat to cohesion are more likely to arise not just from difference or pluralism, but from injustice, inequality, exploitation, restricted freedom, discrimination, inhumanity and the like." [20] Students should study and understand these threats to peaceful resolutions of conflict.

Through a study of other cultures, contemporary and historical, students should be more able to understand the process of change and the motivation of others. Students should become more comfortable dealing with *ambiguity, complexity and diversity.* Indeed one of the hopes of a genuine multicultural curriculum, in contrast to a more parochial approach, is that "an intelligible world history might be expected to diminish the lethality of group encounters by cultivating a sense of individual identification with the triumphs and tribulations of humanity as a whole." [21] Students should be able to place themselves in a historical and cultural context by studying the development of the major civilizations of the world, including that of the United States. Otherwise they will become "prisoners of the present and the proximate." [22]

Education for Cultural Understanding

The 1987 Report of the Study Commission on Global Education advances several goals for education for the future. Students should be able to understand their own and other cultures. They should have a thorough knowledge of the history of our

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20 Peter Figueroa, "Cultural Diversity, Social Reality and Education," in Alec Fife and Peter Figueroa, ed., Education for Cultural Diversity: The Challenge for a New Era, London: Routledge, 1992, p. 27.

21 McNeill, p. 16.

22 Study Commission on Global Education, The United States Prepares for Its Future: Global Perspectives in Education, New York: Global Perspectives in Education, Inc., 1987, p. 18.

country as a "nation of immigrants." They should also have a clear understanding of the structure of our government and the principles and values embodied in the Constitution of the United States and the Bill of Rights. Students should understand the economic ideas and values underlying our institutions. They should also understand the cultural values that inform our religious heritages, literature and arts. Students should study cultural systems globally and understand the diversity of values found in peoples around the world. Students should understand how cultural patterns are different responses to common human needs. They should acknowledge that their own perspectives are not the only valid ones. By examining how different people and cultures respond to common human problems in different circumstances and environments, students should begin to understand and appreciate the sources and reasons for diversity.

The Study Commission on Global Education also strongly recommends the study of human rights, especially those universal human values outlined in the Universal Declaration of Human Rights, adopted by the United Nations in 1948. These values include the "right to life, liberty and the security of the person;" the right to be free from "torture or . . . cruel, inhuman or degrading treatment or punishment;" the "right to work;" the "right to a standard of living adequate for the health and well-being" of individuals and families; the "right to education;" to "free choice of employment;" to "rest and leisure;" and to "freedom of thought, conscience and religion." [23] The study of human rights can be a powerful theme, integrating many disciplines and serving as a way of seeking out and including the voices of individuals and groups who have traditionally been silenced in our schools.

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[23] Ibid., pp. 19-20.

Education to Prepare Citizens to Make Public Policy

Whatever the curricular focus (human rights, civil liberties and environmental justice, as I propose, or other topics), students should be prepared through their studies to engage actively in analytical and creative thinking. They should be aware of the many modes of conceptual analyses from various disciplinary perspectives--the scientific method, historical analysis, economic analysis, ethical judgment, and esthetic/critical approaches in the arts and literature. Key concepts with which students should be familiar include historical context, multiple perspectives, conflict management, interdependence and diversity along cultural, social, economic and environmental dimensions.

Students should have the skills to enable them to identify and help resolve issues of public policy at the school, community, state, national and global levels. To help students understand and empathize with the problems of others at a physical or cultural distance, I would encourage educators to follow the lead of Kenneth Boulding in The World as a Total System. Boulding would like us all to view the world as a series of interrelated systems:

1) the physical system focusing on geography, changing climates, and the interconnectedness of the water and air in our "global commons," accompanied by an understanding of the geopolitical importance of resources;

2) the biological system focusing on the interconnectedness of all living things on earth, their habitats and ecosystems, accompanied by an understanding of humanity's impact on the biosphere;

3) the economic system focusing on understanding the global economy: patterns of work, processes of production, exchange and consumption;

4) the political system focusing on understanding how decisions are made in different

kinds of political regimes (democratic, authoritarian and totalitarian) as well as the concepts of sovereignty, legitimacy, leadership, authority and power in different cultures;

5) the communication and evaluative system focusing on the impact of instant communication of information and problems around the world and of our transformation into a true "global village" with an accompanying need to understand how people in different cultures process information and create meaning for themselves. [24]

To understand complex problems students should employ this interrelated systems approach. Moreover, to generate possible solutions to these problems in our pluralistic, democratic society, students must try to understand the perspectives of "the other sides." To engage in civil discourse with others, it is vital to understand the values, assumptions and perceptions motivating them.

To encourage the development of informed judgment educators must expose students to substantive knowledge of major issues facing the world today but must also provide students with opportunities to use their knowledge and skills to move beyond intellectual debate to active involvement in policy formation. Thus, education should be active, experiential and constructivist. Students should be encouraged to act on their reasoned judgments by writing their legislative representatives or other political leaders at the school, community, state, national or international level, for example, or by designing and implementing community service projects to ameliorate a problem that they have identified and analyzed. Participation in the formation of school rules and practices in classroom is another concrete beginning to this process, but students should also be encouraged to see themselves as agents of change in the broader society.

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[24] Kenneth Boulding, The World as a Total System, Beverly Hills, CA: Sage Publications, 1985.

Students should be encouraged to become part of an informed public. They should see themselves and their world accurately; they should know the difference between "public opinion" and "public judgment." As Robert Bellah and others have noted "public opinion" polls are really a collection of private opinions unrelated to the larger community. On the other hand, to be truly a "public judgment," private opinions must be heard, contradicted, debated, modified and forged into a policy arising from "opinion tested in the arena of open discussion." [25] Pollster Daniel Yankelovich points out that public judgment only emerges after people have been "exposed to the arguments for and against various positions" and have thought "deeply enough about the issue to accept the consequences of their own beliefs." [26]

John Dewey in his book The Public and Its Problems, discusses his deep concerns about the need for a continuous recreation of a viable, informed public. Dewey asks whether the American public has become "much more than what a cynical diplomat once called Italy: a geographical expression?" Noting the apathy about voting and the antipathy of many citizens toward the political process, he worries about the potential power of demagogues to move voters "collectively by the current of the group rather than by independent personal judgment." As modern life becomes more complex, Dewey posits that people will feel increasingly overwhelmed and, therefore,withdraw further from public life. The public is in eclipse because the "machine age has so enormously expanded, multiplied, intensified and complicated the scope of the indirect consequences. . . that the resultant public cannot identify and distinguish itself."[27]

Writing this book in the 1920s, Dewey has proved to be an extremely accurate

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25 Robert N. Bellah, Richard Madsen, William Sullivan, Ann Swidler and Steven M. Tipton, Habits of the Heart: Individualism and Commitment in American Life. Berkeley, CA: University of California Press, 1985, p. 305.

26 Daniel Yankelovich, "How the Public Learns the Public Business," Kettering Review, Winter 1985, p. 9

27 John Dewey, The Public and Its Problems. Athens, Ohio: Swallow Press, Ohio University Press, 1988 reprint, originally published New York: H. Holt, 1927, p. 122 and 126.

prophet of the declining faith in the political system to provide meaning and a sense of community to many individuals. Dewey indicates that we must somehow make individuals feel that they matter by giving them a "responsible share in forming and directing activities and groups to represent their needs and interests."[28] Though there is much information available to citizens from the media (CNN can deliver almost instantaneous pictures of events happening on the other side of the globe 24 hours a day), many people do not have the skills and knowledge to weigh the flood of facts and opinions that engulf them. One study discovered that viewers of the three major network news broadcasts were only able to understand one-third of the items to which they listened.

Educators must liberate the potentialities of students so that they can become part of an active, reflective public capable of making informed public judgments. Dewey would argue that there can be no freedom without intelligent reflection and that educators must provide the situations in which this kind of thinking is encouraged. "Only continuous inquiry, continuous in the sense of being connected as well as persistent, can provide the material of enduring opinion about public matters." [29] Dewey also encouraged teachers and students to address contemporary issues for maximum interest while still recognizing the value of historical studies: "[I]nquiry must be as nearly contemporaneous as possible; otherwise it is only of antiquarian interest. Knowledge of history is evidently necessary for connectedness of knowledge." He strongly argued that teachers forge a close link between history and the "actual scene of events" in the students' world. [30]

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28 Ibid., p. 147.
29 Ibid., p. 178.
30 Ibid., p. 179.

The Case for an Interdisciplinary Approach

Students should gain substantive knowledge of major contemporary issues by learning and utilizing the skills of analytical thinking so that they can negotiate the complexities and see the connections between ideas, issues and problems facing human beings around the world. We need to encourage the use of integrative thinking by actively involving students in examining "real world" issues that cut across the boundaries of traditional disciplines in order to enable students to achieve a larger view of complex problems and possible alternative solutions. Many critics of schools today point to the perceived irrelevance and fragmentation of the students' day as one discrete subject follows another in rigid time blocks. As Heidi Hayes Jacobs says:

> It is easy to forget how, 8 times a day, students leap out of their seats every 40 minutes and rush for 5 minutes to another setting, another subject, another teacher, another set of students. . . A common concern among students is the irrelevance of their course work in their lives out of school. . . The fragmentation of the day only compounds the dilemma as students never have a chance to explore a subject in depth.[31]

Increasingly in the 21st century, students will face complex problems that seldom fall into the neat categories of traditional school subjects. Teachers must still educate students to be able to use appropriate procedures and methods of specific disciplines, but they must "create learning experiences that periodically demonstrate the relationship of the disciplines, thus heightening their relevancy. There is a need to actively show students how different subject areas influence their lives, and it is critical that students see the strength of each discipline perspective in a connected way." [32]

Of course, good teachers have been trying to formulate ways of broadening their own disciplinary perspective to include valuable insights of other disciplines for many

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31 Heidi Hayes Jacobs, "The Growing Need for Interdisciplinary Curriculum Content," in Heidi Hayes Jacobs, ed., Interdisciplinary Curriculum: Design and Implementation, Alexandria, VA: Association for Supervision and Curriculum Development, 1989, p. 4.

32 Ibid., p. 5.

years. English teachers studying a Shakespearean play will find links to the history of the times, the values, the "zeitgeist," as well as analyzing selected literary passages. Jacobs cites Diane Ravitch and Chester Finn's call for an interdisciplinary definition of history beyond

> . . . the memorization of dates and facts or the identification of wars and political leaders, those these have their place . . . Properly conceived, history includes the history of ideas, cultural developments and social, political and economic movements. It includes the evolution of diverse cultures and the changing relationships among peoples, races, religions, and beliefs. [33]

Indeed, a dynamic interdisciplinary study, debate and analysis of policy issues could go a long way to overcome what John Goodlad has called the "extraordinary degree of student passivity" in far too many American classrooms. His study found that less than one percent of instructional time in classrooms surveyed was spent on activities requiring "some kind of open response involving reasoning or perhaps an opinion from students." [34] We must move from a view of students as recipients of information delivered by teachers to a model of students-as-workers and generators of their own learning.

This model of active student learners is one of the nine principles of the Coalition of Essential Schools, which seeks to transform educational practice in our nation's schools. The Coalition's principles arise from the critiques found in Theodore Sizer's books, Horace's Compromise and Horace's School.[35] Sizer calls for a "less is more" reconceptualization of the school day to escape from a "pedagogy of telling" and move toward the creation of a "pedagogy of inquiry." Sizer, echoing Dewey, asks that

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[33] Ibid., p. 6.

[34] John I. Goodlad, A Place Called School: Prospect for the Future: New York: McGraw-Hill Book Co., 1984, p. 229-30.

[35] Theodore Sizer, Horace's Compromise: The Dilemma of the American High School. Boston: Hutton Mifflin Co., 1984 and Horace's School: Redesigning the American High School. Boston: Hutton Mifflin Co., 1992.

teachers support student learning of skills of inquiry, not just rote memorization. Students should not be molded by the existing dysfunctional system of isolated departments. Instead curricular decisions should aim toward mastery of certain "habits of mind." Connection, perspective, evidence, significance and speculation were the habits of mind chosen for development at Central Park East Secondary School, founded by Deborah Meier in New York City, for example.

The central focus of Coalition of Essential Schools is helping students learn how to use their minds well. Teachers should choose subject matter that will lead students to learn and use the following basic competencies: 1) to examine evidence critically; 2) to see the world from multiple perspectives; 3) to make connections and discover underlying patterns; 4) to imagine alternatives and project possible consequences from various choices; and 5) to arrive at reasoned judgments. "Coverage" of certain amounts of "content" should not be the goal. Instead teachers need to shape their curricular choices to meet students' needs for intellectual discipline, enhancement of creative powers and mastery of basic competencies. At a new alternative New York City school, Fannie Lou Hamer Freedom High School, students must also show solid work habits and care and concern for others. Students will graduate only when they have demonstrated, through portfolios or exhibitions, an appropriate level of mastery in "learning how to learn, how to reason, and to investigate complex issues that require collaboration, personal responsibility and a tolerance for uncertainty." [36] The Coalition believes that the choice of exactly which topics should be studied to reach these goals should be left to individual schools and teachers.

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36 Fannie Lou Hamer High School, Graduation Requirements, (handout),September 1994, p. 1.

Law-related Curriculum as an Interdisciplinary Study

Sizer has suggested that teachers should evaluate whether the topics they choose to examine avoid a fatal disconnection between school and life and avoid arbitrary divisions into discrete subjects. "There is only one subject-matter for education, and that is Life in all its manifestations."[37] Although there are many ways in which teachers can design linkages between separate fields of knowledge, I feel that a law-based curriculum focusing on human rights, civil liberties and environmental justice can provide a powerful integrative connection, encourage active student learning and also help bridge the often artificial distinction between school and life.

Why choose law as an integrating focus? Having taught the Law and Society elective for juniors and seniors at Fieldston since 1985, I have seen that students are very active and involved intellectually when they research legal cases to prepare arguments for moot court hearings involving key constitutional principles. Students have debated with great passion and intellectual rigor many major social, ethical, political and economic issues such as abortion, racial and gender discrimination, civil liberties and the rights of the criminally accused. That same kind of active learning has also occurred when I use the law as a focus in more traditional history courses. For example, students have become deeply engaged in exploring the classic tension between the individual and the state in the trial of Socrates or recreating and analyzing the struggle between conscience and loyalty in the trials of Sir Thomas More or Edmund Campion in Tudor England.

Vital discussions result from the requirement that students demonstrate an active understanding of issues. In the mock court format, for example, students research actual cases or hypothetical scenarios in collaboration with their classmates;

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[37] Sizer, Horace's Compromise, p. 114.

understand and weigh conflicting perspectives; formulate their own arguments and anticipate the views of others; and present their arguments and rebut the views of others persuasively to the "court"-- classmates who roleplay judges and announce well-reasoned decisions themselves. Most of my students have found that law-related education is something intrinsically interesting because the subject matter deals with the full range of human drives from prejudice and self-interest to tolerance and responsible citizenship.

The study of law, in its broadest sense, deals with intensely human concerns: the individual versus the state, freedom versus security, human rights versus property rights, liberty versus license; justice versus injustice; equality versus inequality; and power versus powerlessness. Sizer's Coalition of Essential Schools would recast these concepts in the form of certain **essential questions:**

1) Can morality be the basis of judicial and political action? Is there room for cultural relativity in human rights law, which is supposed to be "universal"? What is the difference between legality and morality? What role do customs or traditional practice, which may not be strictly legal or moral, play in controlling human norms and behavior?

2) Should societal authority be based on respect for the rights of the individual, the people and/or the community?

3) Which principle should have a greater priority, "individualism" or "community" if they are in conflict?

4) Should conflict resolution be based on principles of justice?

5) What are the different conceptions of "freedom" in cultures around the world?

6) Can freedom exist without power?

7) Are there common threads which unite varying cultures?

8) What purposes has law served in various cultures?

9) What has law done--intentionally or otherwise--to the various racial and cultural groups in American society and in other countries? to women in American society and around the world? What kinds of assumptions have been implicit in law affecting these same peoples?

10) How can law be used as an instrument of social change and social justice? Can the law be used to protect the rights of individuals and peoples to a healthful and sustainable environment? Do future generations have "rights" to a sustainable environment that we today are obligated to respect?

These essential questions provide the ethical and intellectual core of an inquiry-based, interdisciplinary study focused on law in the United States, in other countries and in the international human rights sphere. This approach should focus on inquiring into the meaning of law, the relationship of law to ethics, the role of law in a pluralistic society, and the role of law as an agent of change. This approach will incorporate materials from economics, science, ethics, philosophy, and anthropology among other disciplines in dealing with issues of authority, diversity, freedom, participation, privacy, justice, property and responsibility.

The major purpose should be to unite analytical skill and empathetic understanding to penetrate to the core of serious value conflicts in the political, ecological, ethical, economic, and social arenas. By examining many "legal" or ethical scenarios which engage the hearts as well as the minds of students, we can help students understand and carefully evaluate alternative perspectives arising in different contexts. We must avoid the bane of bad history teaching, however. If we study law case after law case in a deadening march through a casebook, as history students have sometimes studied fact after dreary fact, we will be missing the humanistic core of this perspective. It is far more important to struggle with compelling problems that call for thinking along many dimensions than to memorize outcomes of cases.

Law-Related Education as Constructivist Inquiry

A multicultural curriculum that is strongly committed to a global perspective and centered on human rights, civil liberties and environmental justice should lead teachers to engage students in actively and creatively constructing their own political and ethical meaning in response to the materials. Constructivism's major premise is that all knowledge is a product of the learner's active organization of his or her own experiences. In other words, knowledge can not be poured into the empty vessel of the student's mind but is actively transformed by the student's own thinking. As John Dewey wrote in Democracy and Education:

> [T]he important thing is that thinking is the method of an educative experience. . . .[T]he essentials of reflection . . . are first, that the pupil have a genuine situation of experience--that there be continuous activity in which he is interested for its own sake; secondly, that a genuine problem develops within this situation as a stimulus to thought; third, that he possess the information and make the observations necessary to deal with it; fourth, that suggested solutions occur to him which he shall be responsible for developing in an orderly way; fifth, that he have opportunity and occasion to test his ideas by application, to make their meaning clear and to discover for himself their validity. [38]

Thus, while teachers can help students acquire knowledge about human rights instruments and covenants, constitutional guarantees, and environmental law, students will make use of this information in dealing with real-life experiences fraught with compelling issues. Ultimately, of course, students will make this knowledge their "own" by organizing it within their own experiences. As Nel Noddings points out:

> Possibly no insight of John Dewey's was greater than that which reveals the vital importance of building educational strategy on the purposes of the child. The principle of the leading out of experience does not imply letting the child learn what he pleases; it suggests that, inescapably, the child *will* learn what he pleases. That means the educator must arrange the effective

[38] John Dewey, Democracy and Education. New York: Macmillan, 1916, p. 192.

> world so that the child will be challenged to master significant tasks in significant situations. [39]

A law-related curriculum that deals with significant tasks in significant situations is more likely to capture and engage students because it combats what David Perkins in Smart Schools has called the "fragile knowledge syndrome." Perkins warns that students often have a lot of missing knowledge, gaps in important concepts; that students often retain naive knowledge like stereotypes even after extensive instruction; that students are asked to master ritual knowledge by learning routines without connections to their intuitions about the ways things really are outside of school; and that students have too much inert knowledge, isolated facts that cannot be recalled reliably and used to solve future problems.[40]

Many other cognitive researchers have explored the problem of inert knowledge. They have discovered that the use of anchored instruction in an active problem-solving task environment, which requires knowledge be *used* rather than facts be memorized, leads students to construct knowledge more meaningfully. Anchored instruction asks teachers to design

> an authentic task environment in which learners can appreciate the utility of the knowledge they are acquiring and , furthermore, can recognize conditions under which this knowledge is applicable. This task environment serves as an instructional anchor that stimulates the interests of learners, enables them to identify problems to be solved, and provides a context in which they can monitor their own comprehension. [41]

In this law-related curriculum, students will learn basic information about human rights forums and constitutional rights, necessary for reflective decision-making, but

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39 Nel Noddings, Caring: A Feminine Approach to Ethics and Moral Education, Berkeley, CA: University of California Press, 1984, p. 63.

40 David Perkins, Smart Schools: From Training Memories to Educating Minds, New York: The Free Press, Macmillan, Inc., 1992, pp. 22-25.

41 Benjamin Bell, Ray Bareiss, and Richard Beckwith, "Sickle Cell Counselor: A Prototype Goal-based Scenario for Instruction in a Museum Environment," in The Journal of the Learning Sciences, 1993/1994, 3 (4), p. 348.

will also be asked to use that information to devise solutions or generate positions on a real human rights problem or a realistic ethical and legal scenario that provides "a coherent framework for integrating information . . . that makes the utility of the newly acquired information clear to the user." [42] As Bell and other researchers have shown, learning in this kind of a task environment promotes the use of knowledge in future problem-solving situations. Students need to develop skills that will enable them to learn not only a specific set of facts; more importantly, especially in today's era of rapid knowledge obsolescence, they need to develop skills about *how* to learn throughout their lives. Students should be encouraged to be competent life-long learners not only in the cognitive sphere, but also in the affective sphere. We want "not just autonomous learners but morally autonomous decision-makers."[43]

As Lynch indicates, schools must arrange experiences for students to "encourage the development of communicative and personal relationship competencies, such as leadership, partnership and creative, principled yet critical followership."[44] Teachers who focus on human rights, civil liberties and environmental stewardship have an almost endless set of possible topics to choose to introduce to their students. To select appropriate topics and help structure the construction of knowledge, teachers can emphasize any number of concepts but must always try to encourage their students to develop vital constructivist skills and attitudes.

Development of skills: Without skills, both rational and intuitive, knowledge and attitudes are not effective. The overarching skill to be developed in a constructivist classroom should be the habit of reflection. To encourage the primary skill of reflection, other active thinking skills should be reinforced and practiced by students'

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[42] Ibid., p. 349.

[43] James Lynch, Multicultural Education in a Global Society, London: The Falmer Press, 1989, p.50.

[44] Ibid., p. 52.

responding to anchored instructional problems:

1) Brainstorming ideas, including the generation of multiple imaginative solutions to problems (combined social and intellectual skills)

2) Identifying sources of information (scanning and garnering skills)

3) Obtaining information and requesting help from others (inquiry and interpersonal skills)

4) Developing productive questions (integrative skills)

5) Evaluating and analyzing information and patterns (evaluative and analytical skills)

6) Imagining alternatives (creative skills)

7) Identifying consequences (interpretative skills)

8) Clarifying priorities (ordering and decision-making skills)

9) Assessing consequences (problem-solving skills for divergence and convergence)

10) Applying criteria (objectifying skills)

11) Making judgments and inferences (inductive reasoning skills)

12) Formulating valid conclusions (evidential skills)

13) Reasoning probabilistically (estimating, hypothesizing and testing skills) [45]

Specifically in a law-related curriculum focused on human rights, civil liberties and environmental stewardship, the following skills should be encouraged:

1) To foster international political literacy in students and the potential to engage in action in support of greater equity, justice and human dignity

2) To develop intellectual integrity in the collection, collation, utilization and evaluation of a variety of evidence as a basis for informed and balanced judgment

3) To encourage the development of global political literacy and the practice of political skills such as communication, advocacy, problem-solving and conflict resolution

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[45] Ibid., p. 60.

4) To reinforce and extend basic learning skills and develop advanced cognitive organization and functioning

5) To reinforce the growth of clarified and reflective values and attitudes and their applications as criteria for balanced, humanly sensitive decisions and judgments

6) To develop decision-making, collaborative and participatory skills as a basis for reasoned judgments

7) To facilitate the ability to judge the history and contemporary role of their own country in the context of world history and development and particularly in its relationship with developing countries.[46]

Development of attitudes and values: Just as knowledge and skills require the right attitude before they can be used, attitudes also require knowledge and skills. "Attitudes are the elements of our character which predispose us to think and behave in particular ways. In that sense, they are the expression of our personality and underlying value assumptions. They comprise both cognitive and affective dimensions." [47] In this law-related curricular framework, the following attitudes and values should be encouraged:

1) To develop a commitment to the values of pluralist democracy and to civil and human rights

2) To nurture a sense of informed responsibility for all fellow human beings and the total ecosphere

3) To foster a positive appreciation of the rich diversity of human cultures and a willingness to judge each in its own context

4) To stimulate the development of empathy with other cultures and peoples, particularly those in developing countries

5) To enable students to develop social commitment and economic and

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[46] Ibid., p. 26.

[47] Ibid., p. 61.

environmental responsibility as world citizens

6) To encourage an appreciation of the role and responsibility of all world citizens for each other and for pressing human problems such as the achievement of peace, the abolition of environmental pollution, the guarantee of human rights for all and the cessation of the exploitation of poor countries, ethnic or racial minorities, and women[48]

Law-Related Education as Moral Education

In developing these skills, attitudes and values, there are many compelling problems that we can investigate along with our students. As David Purpel notes, there is a "dangerous chasm between mainstream educational discourse and the urgent social, political and moral crises of our times." He calls for teachers to affirm the transformational role of education in confronting dangers of mass starvation, overpopulation, civil war, global warming, ozone depletion, and ethnic tension among other challenges. Purpel urges teachers "to provide appropriate language and background and to engage students in serious inquiry" on these issues. However, he warns us that the mere possession of common knowledge does not automatically lead to a moral community which seeks to live a just and caring life:

> We have come to know the anguish of realizing that highly intelligent, sensitive, and creative people (many with a serious spiritual or religious sensibility) are capable of being involved in brutality and oppression. We are aware that it is possible to value both democracy *and* materialism; critical thinking *and* aggression; spiritual peace *and* hierarchy.[49]

Purpel calls for an ethic of caring, which also animates the work of Nel Noddings. He calls for infusing our teaching with a "common moral vision." Doesn't this call for a

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[48] Ibid., p. 26, somewhat modified by author.

[49] David E. Purpel, "Educational Discourse and Global Crisis: What's a Teacher to Do?" in H. Svi Shapiro and David E. Purpel, eds., Critical Social Issues in American Century: Toward the 21st Century. New York: Longman, 1993, p. 282.

common moral vision preclude a respect for diversity, dissent and pluralism, which we wish to encourage in a genuine multicultural, global curriculum? Purpel responds that a sense of community can be built on "such commitments as a concern for social justice, dignity, love, joy, and fulfillment for all. We have extremely rich traditions that give voice to our impulse to care, to be connected with others and with nature, and to live a life of meaning." [50]

Shouldn't teachers just concentrate on their "subjects"? Even at a school like Fieldston, founded by the Ethical Culture Society and imbued with a deep concern for justice and care, shouldn't teachers leave the discussion of values to the faculty members of the Ethics Department. Isn't that "their" job? Don't we run the risk of indoctrination, of teaching values? The reality is that no matter what or how we teach, values already saturate the school environment. Our choice of texts, our interactions with students, and our methods of evaluation are all imbued with values. For example, the call in some quarters for a "back to basics" educational approach to assure "minimal competence" so that students will acquire sufficient skills to earn a living may reflect a high value placed on self-sufficiency. The value of self-sufficiency may, in turn, reflect an "every-man-for-himself" fearfulness in an unstable, unpredictable world. As Christopher Lasch indicates in The Minimal Self:

> One reason people no longer see themselves as the subject of a narrative is that they no longer see themselves as subjects at all but rather as the victims of circumstance: and this feeling of being acted on by uncontrollable external forces prompts another mode of moral armament, a withdrawal of the beleaguered self into the person of a detached, bemused, ironic observer. [51]

If we wish to avoid creating students who are detached, bemused and ironic observers, we must examine how we teach. Even in independent schools, which offer much more than a minimal competence educational model, if we teach disconnected

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[50] Ibid., p.283.

[51] Christopher Lasch, The Minimal Self, New York: W.W. Norton, 1983, p. 96.

skills and unconnected facts and do not teach for insight and complexity, we atomize the individual student, prevent her from engaging a rapidly changing world, and inadvertently encourage a lack of concern for others. In discussing real-life issues through legal cases and ethical scenarios, it is important that we stress that these are not just abstract intellectual exercises. We must also emphasize the capacity of human beings to transform and reform their reality. It is important to educate students for a public purpose, to increase their capacity for informed citizenship and democratic participation. The curriculum I have in mind places the development of a sense of active agency at its center. In a classroom that focuses on active agency, students and teachers should be inquiring together into the ways that open up new spaces where individual or collective visions of a more just society can be created. As Professor Maxine Greene writes:

> 'Connected teaching,' for example, involves what Nel Noddings describes as 'care.' Rather than posing dilemmas to students or presenting models of expertise, the caring teacher tries to look through students' eyes, to struggle *with* them as subjects in search of their own projects, their own ways of making sense of the world. Reflectiveness, even logical thinking remain important; but the point of cognitive development is not to gain an increasingly complete grasp of abstract principles. It is to interpret from as many vantage points as possible lived experience, the ways there are of being in the world. [52]

Maxine Greene's call to honor what all students bring to the classroom and to encourage their search for their own projects is central to a genuinely constructivist multicultural school. Nel Noddings says that caring teachers must be open to cooperative planning with their students about what they will study:

> Cooperative planning does not imply that teachers give up the responsibility to initiate. . . In planning units of teacher choice, much thought should be given to likely student interests as well as to needs that teachers have evaluated, and within teacher-choice units there should be many options for students to study in ways that build on

[52] Maxine Greene, "Education, Art and Mastery: Toward the "Spheres of Freedom," in H. Svi Shapiro and David E. Purpel, eds., Critical Social Issues in American Education: Toward the 21st Century. New York: Longman,1993, p. 332.

> their special capacities and affiliations. Similarly, when units are chosen by students, teacher guidance should remain strong. . . students and teachers together can make a list of worthwhile topics and questions to pursue next.[53]

A curriculum that focuses on human rights, civil liberties and environmental stewardship responds to many student interests and leaves room for students to pursue their own special concerns. The essence of the approach is a *double dialogue*: first, between teacher and students and second, a dialogue of teacher and students as co-learners trying to construct knowledge and create meaning by wrestling with authentic and important problems. Purpel also calls for dialogue, not didactics, in "noting and detecting our achievements and shortcomings and of suggesting ways of dealing with them." In essence, Purpel, Noddings and Greene are asking us to teach in a prophetic voice, a vision with which I wholeheartedly agree. As Purpel indicates:

> The educator as prophet does more than re-mind, re-answer, and re-invigorate the prophet-educator conducts re-search and joins students in continually developing skills and knowledge that enhance the possibility of justice, community and joy. His concern is with the search for meaning through the process of criticism, imagination, and creativity. [54]

Of course, there is no guarantee that studying human rights will automatically lead to our students' acting to respect human rights. It would be preferable to *live* human rights rather than learn about them, but at least a human rights focus provides a unifying moral basis and an intellectual coherence and interconnectedness for a global multicultural curriculum. Moreover, by giving students an opportunity to analyze *and* act on human rights, civil liberties and environmental justice problems, there should be less of a divorce between learning and doing. As Dewey says: "The business of the educator--whether parent or teacher--is to see to it that the greatest

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53 Nel Noddings, The Challenge to Care in Schools: An Alternative Approach to Education, New York: Teachers College Press, Columbia University, 1992, p.176.

54 David E. Purpel, "Education in a Prophetic Voice," in H. Svi Shapiro and David E. Purpel, eds., Critical Social Issues in American Education: Toward the 21st Century, New York: Longman, 1993, p. 349.

number of ideas acquired by children and youth are acquired in such a vital way that they become *moving* ideas, motivating forces in the guidance of conduct."[55]

How we teach, act and live as teachers and students in our schools, therefore, becomes even more important than the *what* of our "subjects." Sidney Hook in his introduction to Moral Principles in Education makes Dewey's idea clear:

> How then does the child acquire this moral sense so that it becomes effectively expressed in conduct? By instruction in all subjects that elicits an active response in testing or carrying out ideas, by learning as a form of disciplined or controlled doing rather then by passive absorption of what he hears. Instead of being merely told, he is encouraged to find out by and for himself and often with others.[56]

Conclusion to the Philosophical and Pedagogical Rationale

My purpose in the first part of this paper has been to examine the philosophical and pedagogical underpinnings of a law-related curriculum that focuses on issues of human rights, civil liberties and environmental justice to advance certain multicultural and global perspectives necessary for students and citizens of the 21st century. Demographic changes in the wider society, as well as in the student bodies of independent schools, impel a re-examination of what and how we are teaching. If we are to serve all of our students, we must enhance their ability to navigate comfortably across borders of diverse cultures and socioeconomic, sociopolitical, linguistic, gender and structural divides. Students should be comfortable with cultural diversity, work to achieve social justice here and abroad, and advance the social cohesion and inclusion of diverse groups within our pluralist democracy. Students should be comfortable dealing with ambiguity, complexity and difference. They should understand how complex physical, biological, economic, political and communication

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55 John Dewey, Moral Principles in Education, Boston: Houghton Mifflin Co., 1909; reprint, Carbondale, Illinois: Southern Illinois University Press, 1975, p. 2.

56 Ibid., pp. ix and x.

systems interrelate and why problems often arise that combine several of these dimensions.

A law-related curriculum that focuses on human rights, civil liberties and environmental stewardship can help students integrate their thinking, by using insights from many, now separated, disciplines. If taught in a constructivist manner, a law-related inquiry offers many opportunities for students to examine real-life problems in anchored instructional situations; to develop reflective skills, attitudes and values; and to use their intellectual knowledge in active moral, ethical and political contexts. This law-related approach should encourage development of a sense of active agency in students, a respect for multiple perspectives and an appreciation of our fellow human beings who, though different or often silenced, have ideas worth examining. As Lisa Delpit eloquently states:

> To do so takes a very special kind of listening, listening that requires not only open eyes and ears, but open hearts and minds. We do not really see through our eyes or hear through our ears, but through our beliefs. To put our beliefs on hold is to cease to exist as ourselves for a moment -- and that is not easy. It is painful as well, because it means turning yourself inside out, giving up your own sense of who you are, and being willing to see yourself in the unflattering light of another's angry gaze. It is not easy, but it is the only way to learn what it might feel like to be someone else and the only way to start the dialogue.[57]

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[57] Lisa D.Delpit, "Silenced Dialogue:Power and Pedagogy in Educating Other People's Children," in Lois Weis and Michelle Fine, eds., Beyond Silenced Voices: Class, Race, and Gender in United States Schools. Albany, NY: State University of New York Press, 1993, p. 139

Part Two--Curricular Suggestions for a Law-Related Multicultural Focus

"The salvation of mankind lies only in making everything the concern of all."
Alexander Solzhenitsyn

"We are beginning to discover that our problems are worldwide, and no people of the earth can work out its salvation by detaching itself from others. Either we shall be saved together or drawn together into destruction."
Rabindranath Tagore

"Schools all over the world should pay more attention to international problems so that young people will see more clearly the dangers they are facing, their own responsibilities and the opportunities of cooperation -- globally and regionally as well as within their own neighborhoods."
The Brandt Report

There has been a great upsurge of interest in law-related education over the past 25 years in the United States, paralleling a greater consciousness of the way that law pervades our daily life (even before the days of Court TV and its constant coverage of the O.J. Simpson trial!) Citizens in increasingly greater numbers have been turning to the courts for redress of many grievances, especially those dealing with denial of civil liberties guaranteed under the U.S. Constitution. The civil rights movement did not begin with the *Brown v. Board of Education* decision in 1954, but that decision, ordering the desegregation of our nation's public schools, opened up an era of unprecedented Supreme Court activity in civil liberties jurisprudence. Decisions from the Warren Court era and later terms extended many Bill of Rights guarantees to American citizens, most controversially to defendants involved in state criminal proceedings.

Many other factors have led to an increasing interest in law-related education: among these, the Watergate scandal with government officials being unmasked as lawbreakers; the rise of violence in schools and the wider society; the growth of technology, which has allowed business and government to invade people's privacy;

and the ever widening web of legal controls over our daily lives from birth to death. The courts have become more like legislatures in the view of many judicial conservatives, setting or guiding policy in many areas of our lives. For example, conflicts over deeply divisive social issues like the death penalty, abortion, the rights of homosexuals, the "right to die," freedom of speech for hate groups, the rights of ethnic and racial minorities and women in the U.S. to be free from discriminatory treatment, the legality and desirability of affirmative action programs, rights of property and freedom of enterprise, individual economic and social welfare rights and rights to education have all come before the U.S. Supreme Court for "resolution."

To "prepare students for effective citizenship," many schools in the United States have some law-related component in their course offerings. American history, economics, government or contemporary problems courses would be very hard to teach without reference to the laws or legal structure of American society. Many ancient, medieval and modern world history courses also touch on law because law is a reflection of important values of a society (or at least the powerful groups and individuals within a society) and can be a valuable "window" into a culture.

For the past ten years, I have taught a one-semester Law and Society elective to juniors and seniors at the Fieldston School in New York City. The course has been exclusively centered around the U.S. Constitution and has chiefly focused on analysis of important Supreme Court cases arising from provisions of the Bill of Rights. The early part of the course has been structured around certain philosophical and historical questions about the role of law in American society and the values underlying our constitutional system of government. Some of these questions can be seen in the following brief section from a longer course outline:

I. Political Philosophy
  A. What are the basic ideas of the natural rights philosophy?
    1. How are the basic ideas of the natural rights philosophy included in the Declaration of Independence and the Constitution?

2. Does the responsibility of the government to protect individual rights mean:
   a. that the government must not unfairly deprive individuals of the rights to life, liberty or property? or
   b. that the government is responsible for being sure individuals have at least the minimum they need to live, to exercise their freedoms and to pursue happiness as they wish?

I would like to expand this very Western focus to include a cross-cultural comparison of the role law plays in other countries. Because law is a reflection of the values or norms of a society, the study of law can be very helpful in understanding the cultures and viewpoints of others. Building on law-related education's traditional respect for competing and multiple perspectives, I would also like to remove the strongly ethnocentric bias of the course by studying the growth of international human rights law after World War II. For example, in answering question 2(b) above, it would be helpful to look at what social and economic rights are guaranteed under the various United Nations and regional human rights instruments. Because the U.S. has placed so much emphasis on civil and political rights, it would be interesting for students to see how the homeless people who live on our streets and in our parks might have a social "right" to shelter under these international instruments. With the current debate in Washington, D.C. raging over cutting back welfare payments to unwed teenage mothers, what do these human rights instruments say on this subject, if anything? Students at Fieldston or in other schools around the U.S. should have justifiable pride in many political civil liberties guarantees of the U.S. Constitution, but a cross-cultural and international comparative study should point out that we have a somewhat narrower definition of economic and social "rights" than other countries around the globe and should lead them to reexamine the strengths and weaknesses of our legal and social system.

The modern conception of human rights was formulated during and after the Second World War. During the war, the Allied powers had made respect for human

rights a chief war aim. In 1945, the Allies included crimes against humanity among the charges on which Nazi leaders were tried. The United Nations Charter declared that promoting respect for human rights was a principal purpose of the United Nations Organization. The human rights idea found its contemporary expression in the Universal Declaration of Human Rights adopted by the United Nations General Assembly in 1948 with only eight abstentions, and in the numerous covenants and conventions derived from it.

The Universal Declaration of Human Rights forged a moral framework that provided an international yardstick for national and personal moral judgment. Its thirty articles cover freedom of thought, religion, expression and assembly: rights to be free from discrimination, torture and unfair detention as well as rights to life, a home, work, education and health. Even though the Declaration does not have the force of binding international law, it exerts a powerful moral force. Although it seems to share many of the same values as Locke and other natural law and natural rights thinkers, the Universal Declaration of Human Rights does not justify itself in natural law, social contract or any other political theory. As Columbia University law professor Louis Henkin states:

> In international instruments representatives of states declare and recognize human rights, define their content and ordain their consequences within political societies and in the system of nation-states. The justification of human rights is rhetorical, not philosophical. Human rights are self-evident, implied in other ideas that are commonly intuited and accepted. Human rights are derived from accepted principles, or are required by accepted ends--societal ends such as peace and justice, individual ends such as human dignity, happiness, fulfillment.[58]

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58 Louis Henkin, "Introduction: The Human Rights Idea," in Human Rights: Readings--Vol 1. New York: Columbia University School of Law, 1994, p. 3.

Proposed Human Rights and Civil Liberties Course Outline

Part One: Yet it is important that students understand the roots of these "accepted principles" of human rights. The first part of a course centered on human rights and civil liberties might begin by examining excerpts from the Western individual rights tradition and some alternative conceptions of the "good society" and critiques of the idea of rights. The order of these units may be rearranged and the materials I have assembled for the students to consider will, of course, be modified after I have taught the course and as students incorporate their changing interests. As always, I will continue to use newly arising situations (like the bombing in Oklahoma City and the renewed massacres in Rwanda) to discuss these human rights issues. Although I will include some possible readings, case studies and teaching approaches here, I feel it is more important to spend time in thinking about ways to penetrate to the heart of critical issues by posing Sizer-like essential questions:

1) What is a "right"? Is it a "liberty"? a "privilege"? a "claim" on someone or something?

2) What is the meaning of an "inalienable", "universal," "natural," or "fundamental" right? Is there room for cultural relativism in human rights?

3) Are human rights expressions of ideals (of what "should be") or descriptions of legal claims in existing states?

4) Are human rights *equally* possessed by all people?

5) Are certain rights more important than other rights? Economic, political, social, religious, group, cultural, minority or individual? How do you resolve conflicts between and among these rights? Can some rights "trump" other rights? Does the individual have rights that must be recognized and supported by the community? Does the community have rights that "trump" individual rights?

6) What are the sources of "individual rights thinking" in the United States? (Religious: Jewish, Christian and Islamic traditions; Classical: law codes and philosophy from

Babylonia, Greece and Rome; European: Magna Carta, common law, Kant, Locke, Jefferson, Declaration of the Rights of Man and Citizens, Paine, Mill)

7) What alternatives to individual rights exist in other conceptions of the " Good Society"? (Rousseau, Bentham, Burke, Marx--what do these thinkers say about the balance between the rights of individuals and the rights of the community?) What other critiques of the idea of rights exist? (Rawls, Hart, Tushnet, Williams--does a right become a right because it has "utility" or because a government has declared it? Or does a human being have rights before governments were formed that must not be derogated by governments? If all societies have their own "structures of rights," is it fair to criticize them from outside that cultural perspective?) What visions of the rights of the collective exist? (Chinese, Islamic, African and Native American viewpoints)

8. What is the student's view of the "Good Society"?

Part Two: Students can understand these "rights questions" more readily by dealing with individual rights in the constitutional framework of the United States. The material in this section will most closely replicate the approach I have taken in earlier years, that is, a reliance on important early documents from the Federalist period and Supreme Court cases arising out of the Constitution. The Bill of Rights and the gradual extension of its civil liberties guarantees to state citizens will remain the central focus. However, I will add more material throughout the course on common law actions mainly in state courts, to show another source of rights in our country. Brief excerpts from Blackstone's Commentaries on the Laws of England will be examined and linked to issues of family law and gender roles, the subject of much feminist legal writings in the past twenty five years. In addition, special consideration will be paid to the status of Native Americans as well as other ethnic and religious minorities in the United States.

Some key questions in this unit might be:

1. In the original Constitution what concepts or theories of "rights" exist? Is "equality" a concern of the Framers? What happened to "life, liberty and happiness" from the Declaration of Independence? Is individual liberty protected fully by the Bill of Rights? What is the meaning of the ninth and tenth amendments to the Constitution in this regard?

2. Does it matter where your rights come from? Common law? State law? Federal law? Do state constitutions offer greater or lesser safeguards of individual liberty than the U.S. Constitution? Are constitutions always the best safeguard of rights? The French have "consumed" many constitutions! (Examine arguments that an Equal Rights Amendment is no longer necessary because statutes have protected the important rights for women.)

3. How much protection of individual liberties does the Bill of Rights actually provide? (They only apply to "state action.")

4. Are there any absolute rights which should never be derogated in the U.S.? For what reasons should rights be limited? What are some limitations on individual rights in the United States? ("Police power" rights to regulate in the public interest on matters of morals, health, safety; regulations on property to preserve important aesthetic, preservationist, or environmental values; limits to ensure the national security)

5. Must you exercise your right "reasonably"? President Clinton has just spoken out against hate mongers in the aftermath of the terrorist attack in Oklahoma City. Is the right of free speech only a right if is used "responsibly"? Can a right be conditioned or restricted and still be seen as a "right"?

6. Once you define a "public good" can you override a "right"? Is there any limit on the limitations that governments can put on your rights? Are there some rights which

enjoy a "preferred position" in a hierarchy of rights? Freedom of speech, press, religion, association or property? Why might First Amendment rights occupy a preferred position over economic rights?

7. When rights conflict (e.g., the right of the accused to an impartial jury and fair trial versus the right of the press and the public to know what is going on in their courts; the rights of some Native Americans to freely exercise their religious freedom by using hallucinogenic substances versus state laws against illegal drug use) how do courts resolve these conflicts? What standards or tests have they evolved to help in the search for solutions to these conflicts? ("balancing," "strict scrutiny" for some rights, only "rational basis" necessary for others?) I plan to use more cases that deal with the claims of religious or ethnic minorities in the U.S.--Jehovah's Witnesses, Christian Scientists, Mormons, Jews to consideration of their special religious beliefs when they conflict with statutes. What special status do Native Americans enjoy in American law? Should Hasidic Jews who fear taunts directed at handicapped children of their community be entitled to have a separate school district created for them in New York?

8. Are national borders relevant to human rights? What rights are U.S. government officials obligated to recognize in dealing with aliens on our territory? Does the protection of the Constitution apply only to our own citizens? Does a legal resident alien have different rights than an illegal alien? (Use the California Proposition 187 referendum as a case study).

9. Can rights be conditioned for immigrants to the U.S.? Would it be constitutional to allow immigrants into the U.S. on the condition that they could only live in one state? that they could enter if they became Catholic? that they could only hold certain jobs?

10. What remedies exist if you feel your rights have been invaded? Do all rights have remedies? What remedies, if any, are spelled out in the U.S. Constitution? Why has the concept of judicial review been so important in making the U.S. a more just

society? Why have the courts in the U.S. been the chief issuer of remedies? (See de Tocqueville's Democracy in America) Should everyone expect the courts to fashion a remedy for a wrong?

11. To bring a case you must have "standing"--that is, you must have suffered a direct, personal injury or be in imminent danger of suffering such a particularized harm. What happens when a harm is to the wider society? Is there any remedy? Why shouldn't the courts agree to hear "citizens' suits" about dangers to the "commons"? What is a "political question"?

Part Three: "International Human Rights" will place rights in its historical context --the humanitarian law governing the conduct of war established in the 19th Century and expanded later in the Geneva Conventions, administered by the International Committee of the Red Cross and national Red Cross groups. The class will examine key human rights treaties developed after World War II: The United Nations Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and its Optional Protocol, the International Covenant on Economic, Social and Cultural Rights and a few other human rights instruments: the Conventions on the Prevention and Punishment of the Crime of Genocide, on the Elimination of All Forms of Racial Discrimination, on the Elimination of All Forms of Discrimination Against Women; and against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment.

International law, until relatively recently, has consisted of treaties regulating state-to-state behavior and has not directly affected individual persons. International law has taken two principal forms: 1) conventional law like bilateral, multilateral or international treaties and agreements binding only on signatory states and 2) customary law that arises out of widely accepted state practices and traditions carried out with a sense of legal obligation; customary law is binding on all states,

even new states who had no say in developing these norms. Genocide; slavery; murder or causing the disappearances of individuals; torture or other cruel, inhuman or degrading treatment or punishment; prolonged arbitrary detention; systematic racial discrimination; or a consistent pattern of gross violations of internationally recognized human rights fall within the current understanding of customary international law. However, other rights may eventually be incorporated into evolving customary law.

Key concepts and questions to be discussed:

1. Why do treaties work without an international policeman?

2. Why does the climate on human rights change after World War II? (Why is Hitler called the "patron saint" of human rights?)

3. What recourse do individuals who assert violations of their human rights have through the substantive and procedural frameworks of the Covenant on Civil and Political Rights and its Optional Protocols?

4. What rights do groups have under international human rights instruments? Specifically how do these instruments treat the rights of indigenous peoples and individual members of ethnic, racial or linguistic minorities? Students could follow any number of human rights situations around the world: the plight of the Kurds in Iraq and Turkey; the numerous problems in the former Soviet Union; the Indians of Guatemala; the right of English-speaking individuals in Quebec, and the rights of Indians and religious minorities in the U.S. to educate their children or practice their religion?

5. Can international human rights remedies be used by such "peoples" and individual members of such groups in the United States? To what extent is there danger that "too much" respect for pluralism in the U.S. will lead to disintegration and lack of cohesion or a loss of a common "American culture"?

6. What are economic, social and cultural rights? (Look at:
a. Articles 55 and 56 of UN Charter

b. Articles 1, 2, 7, 17 and 22-30 of the Universal Declaration of Human Rights

c. Covenant on Economic, Social and Cultural Rights

d. Preamble and Article 22 of the Covenant on Civil and Political Rights

e. Articles 16, 29-31, 34-35, 40, 42-45, 47-48 and 52 (d) of OAS Charter

f. Preamble, Articles XI-XVI; XXIII, XXVIII, and XXXV-XXXVII of American Declaration of the Rights and Duties of Man

g. Articles 21 and 26 of the American Convention on Human Rights

7. How, if at all, do the above provisions relate to the "Four Freedoms" speech that President Franklin D. Roosevelt delivered in 1941 or his 1944 State of the Union address? Do all Americans have a "right" to a minimum standard of living?

8. Roleplay exercise: Should the U.S. ratify the Covenant on Economic, Social and Cultural Rights? (See materials and key questions.)

9. Should there be a third "generation of rights"? The first generation of civil and political rights arose from 18th century and the second generation of economic, social and cultural rights came into being at the end of the 19th and in the 20th century. Some have proposed a third generation of rights predicated on brotherhood or solidarity. Six possible areas are under consideration: environment, development, peace, the common heritage, communication and humanitarian assistance. What are the advantages of protecting these new categories of rights through international covenants? What is the danger to older generation of rights in continually adding more and more "fundamental" rights? Should a hierarchy of new rights be created?

10. Should a "right" to development be recognized as a legal construct combining all the economic, social and cultural rights? Does it make sense to articulate the right to development when many of its constituent economic, social and cultural rights are not

yet adequately defined? Are these new generation of rights really "rights" or political and social "goods" cloaked in the mantle of human rights?

Part Four: We will examine some international and national remedies to human rights violations. Because international treaties signed by the U.S. government are part of the "law of the land" under the U.S. Constitution, the courts are obligated to give effect to international law, except that a "non self-executing" agreement will not be given effect as law in the absence of necessary implementing legislation by the Congress. This is only one of several ways in which international treaties supporting human rights might not be given full effect in the U.S. When ratifying international agreements, the Senate has often done so only after attaching "reservations, declarations and/or understandings" that have significantly undercut the effectiveness of the treaty or narrowed its applicability to current practices within the United States.

Nonetheless, the United States Congress has also passed several laws indicating its support of human rights around the world. Congress passed the Torture Victims Protections Act in 1991 to allow victims of official torture or extrajudicical killing to sue for civil damages in U.S. courts; if their torturers have assets in the U.S., the courts can order payment of damages. Congress has also established an office of the Assistant Secretary of State for Human Rights and Humanitarian Affairs, under whose auspices annual reports of human rights practices of many countries are prepared. The results of these reports may be used by Congress to assess whether or not to continue military and economic aid to foreign countries whose human rights practices have not improved. How effective these laws have been should be debated by the students. Recently, the Clinton administration failed to get the leaders of China to improve their human rights policies and practices but still allowed "most favored nation" status, vital to China's trade with the United States, to continue. Is the cause of human rights

advanced by punitive withdrawal of aid or , as others argue, is "engagement" and continuing quiet diplomacy a more effective way to bring about improvements in foreign human rights practice? A study of the U.S. imposition of economic sanctions on South Africa and its effect on the destruction of apartheid might illuminate this question.

The United States has also been part of humanitarian interventions abroad under U.N. auspices to prevent mass starvation in Somalia due to civil war. Invoking a right of humanitarian intervention to ease the plight of Haitian refugees, the U.S. recently invaded Haiti to restore an elected government that had been overthrown by a military dictatorship. Is there a "right" of international humanitarian intervention to prevent a continuation of the genocide in Bosnia, in Rwanda? Vietnam invoked the right of humanitarian intervention when it invaded Cambodia. Was this a genuine act of compassion for the victims of Pol Pot and the Khmer Rouge, or was this a Vietnamese "cover" for domination and control of an ancient enemy on its border?

How can the International Court of Justice use its advisory jurisdiction to help enforce humanitarian and human rights laws? The "humanitarian law" governing armed conflicts is comprised chiefly of the Geneva Conventions of 1949 and the 1977 protocols (especially the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War). What responsibilities do nations have during war? What constitutes criminal conduct during war time? What are the responsibilities of soldiers during warfare? A study of the Nuremberg Tribunal which tried Nazi war criminals after World War II could serve as a starting point to discuss the actions of Lt. William Calley at My Lai during the U.S. involvement in Vietnam. We might study the proceedings of the current war crimes tribunal, which is trying Serbs accused of war crimes in Bosnia. We might also examine the situation of Israel's treatment of the Palestinians in the Occupied Territories. Because there are so many Jewish students

at Fieldston, it would be helpful to sensitize them to the nature of human rights abuses in a close democratic ally like Israel.

Actions of U.S. government officials have also been challenged as violations of international human rights obligations. U.S. Drug Enforcement Agency representatives have kidnapped Mexicans and other foreign nationals in other countries and forcibly brought them to the U.S. for trial on drug smuggling charges. Is this legal? Was the U.S. violating international law by forcibly intercepting and returning fleeing Haitians to their country without allowing them to make claims for refugee or asylum status?

Further key questions in this area:

1. What rights do refugees have under international human rights instruments? What standards have U.S. courts set to determine whether someone is entitled to refugee or asylum status? Is the Emma Lazarus poem about the Statue of Liberty still expressive of current American values?
2. How do U.S. courts handle a treaty obligation of the U.S.? What have been the effects of reservations, declarations and understandings attached by the Senate when treaties are ratified? If there is a conflict between language of a treaty and U.S. law and practices, which prevails?
3. What has been the effect of Congressional laws that tie continuation of foreign aid to progress on human rights? Is there a damage to the cause of human rights if the U.S. only cuts off aid to small, "unimportant" countries but continues it to China under pressure from U.S. business leaders? Should U.S. corporations have the right to invest as they see fit anywhere without government restrictions? Are there better ways to encourage foreign governments to protect the human rights of people within their borders?
4. What are the advantages and disadvantages of humanitarian interventions to

prevent mass starvation or to prevent genocide? Should the principle be extended to allow interventions or invasions into countries, like Haiti, where non-representative, non-democratic regimes are seen to be "threats to the peace"?

Part Five: The last unit will compare how American law, foreign law and international law deal with some selected human rights topics. There are many topics from which to choose, and the focus will probably shift from year to year depending on the interests of the students. Students, as always, are free to pursue their own interests through individual research papers or group projects. Some possible topics might be:

I. Capital Punishment: We will examine the controversy over the death penalty in the context of international human instruments like the International Covenant on Civil and Political Rights. The ICCPR prohibits "cruel, inhuman and degrading punishment and treatment" and looks to the eventual abolition of capital punishment and states that no one should be put to death for crimes committed below the age of 18. A 15 year old can be executed in the United States. The American Convention on Human Rights prohibits extension of the death penalty to crimes "to which it does not presently apply." What does this say about the recently passed crime bill that creates many new federal capital crimes? The American Convention also prohibits the reestablishment of the death penalty in states that have abolished it. Would this apply to New York State's recent reinstitution of the death penalty if the U.S. had ratified the Convention?

We might examine the refusal of England to extradite Soering, a German citizen on its soil, to the United States to face trial and a possible death penalty. The grounds? The European Court of Human Rights had protested against the cruel and inhuman *treatment* that Soering would face if he were to spend years on death row before final execution. Does "death row syndrome" constitute "cruel and unusual *punishment*" under the Constitution's Eighth Amendment or is it a price that convicted felons must

pay to enjoy the protections of full procedural due process while their appeals are underway? How should we react to statistical studies showing that people who kill whites are more likely to receive the death penalty than people who kill blacks? What are the views of other societies on the purposes of the death penalty? Retribution only? Deterrence? We will look at the reasons that the death penalty has been invoked in China from imperial days to the post-Tiananmen period.

2. Issues of Autonomy and Privacy: Abortion: We will compare U.S. law after *Roe v. Wade* and *Planned Parenthood v. Casey* with the "right of life" protection afforded in Article 4 of the American Convention on Human Rights: "Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life." Abortion remains one of the most hotly debated areas of U.S. jurisprudence, but the *Roe v. Wade* decision is framed in terms of privacy and autonomy rather than a "right to life." Does the woman's right of privacy and autonomy supersede the rights of her fetus in other countries? Another Western democracy has a very different policy. We will look at Germany and its practices which actively promote fetal life and make it very difficult for a woman to obtain an abortion. Why would the German experiences in World War II have contributed to this very stringent standard? What happens when a government (like Communist Romania a few years ago) decides as a matter of state policy that all contraception is illegal and that women should be carefully monitored to assure the highest number of pregnancies?

We will examine the strong influence of the Catholic Church in some countries as seen in an Irish law that forbids the dissemination of any information concerning the availability of abortions outside Ireland. What role should religion play in law in a pluralist society like the U.S.? We might also study the problems created by the active enforcement in China of the "one-child" policy. Does this promote state-sanctioned

infanticide? Do traditional Chinese cultural norms make it more likely that female infanticide will result?

3. Issues of Autonomy and Privacy--Rights of homosexuals: We will look at the *Bowers v. Hardwick* case in the U.S. and compare the ways the Europe Court of Human Rights has handled homosexual rights issues. Should religious beliefs always/ever supersede the rights of individuals not to be discriminated against?

4. Rights of criminal fair process: We will examine the tension between substantive laws which seek to protect society from malefactors and the guarantees of procedural due process which protect the criminally accused from the possibly arbitrary and unlimited power of the state? Why should an individual in the United States who is accused of a crime be entitled to the presumption of innocence, free legal counsel if necessary, the right to subpoena witnesses on her behalf, the right to confront witnesses against her, the right to know what charges she is facing, the right to remain silent and avoid self-incrimination, the right to a public trial by an impartial authority, the right to avoid double jeopardy, the opportunity to appeal? Should relevant evidence be excluded because the police failed to warn a suspect of her right to remain silent or because there was something wrong with a search warrant? What are the practices of other democracies: England, India, or France? What was the practice of the Soviet Union? What are the practices of some groups like Native American tribes in the U.S. who believe that the interests of the collective outweigh the rights of individuals? (Indians are exempted from the Bill of Rights.)

What happens when the right of a person to a fair trial conflicts with the freedom of the press to cover trials and pretrial hearings? We will compare cases in the U.S. with cases from England, Japan and South Korea.

We will examine the juvenile justice system across cultures. In American family courts dealing with abused or neglected children or in cases of divorce, the "best

interests of the child" is the usual guiding standard. In other traditions, like many Native American tribes, the interests of the collective, the family, clan or tribe, outweigh the interests of the child and the parents. A possible question: Should white foster parents be allowed to adopt black or mixed-race children or would that lead to the extinction of racial cohesion and pride? In addition, the rights of students in schools will be discussed: rights concerning privacy of records and disciplinary proceedings; rights against unreasonable searches and seizures; and rights of student press and other forms of expression.

5. Freedom of Expression: This includes many topics--freedom of press, freedom of speech, freedom of association, freedom of religion. We will examine the explosive issue of First Amendment "protection of the thought we hate"-- does society have a right to protect individuals or groups from hate speech directed at them? The case of the American Nazi Party which was allowed to march in Skokie, Illinois, a town filled with Jewish survivors of the Holocaust will be studied. By way of comparison, German law punishes any incitement to hatred, and the Covenant on Civil and Political Rights forbids "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination or violence." What values are we protecting when we protect hate speech? When does speech become "conduct" that is not protected?

6. Equality and Equal Protection of the Laws,Non-Discrimination & Affirmative Action: These are very controversial topics with many possible questions to explore:

a. To what extent is it permissible to use preferences or other compensatory mechanisms to overcome the effects of past discrimination against racial and ethnic minorities and women? What is "merit'? Are we unfair burdening individuals of the "majority" by affirmative action programs?

b. Has affirmative action become "reverse discrimination"? Isn't the concept of

affirmative action antithetical to the ideal of equal treatment and equal protection of the laws in our society? Should individuals be treated as individuals or as members of identified groups that have been victimized by past societal discrimination? Do we make stereotypical assumptions that an individual reflects the supposed characteristics of a particular group?

c. Should there be a close nexus between proposed remedial measures and the goal of overcoming past discrimination? Are there still supposedly neutral practices, like "objective tests" or other qualifications, used to sort entrance into colleges and job, that result in continuing discrimination? Should there be time limits on affirmative action programs?

d. We might investigate what India has been trying to do to compensate for discrimination against certain "scheduled castes and tribes." What do the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Convention on the Elimination of All Forms of Discrimination against Women have to say about affirmative action?

e. What protections do women in the U.S. now have against discrimination on the basis of their gender? What have been the historical reasons for women's status under the law in the U.S.? Why do women in the U.S. and around the world who allege discrimination have fewer national and international remedies than those suffering from racial discrimination? Why have women had few protections against violence within their families? Why has systematic rape in Bosnia become a recent interest of international law? We might examine some feminist critiques of U.S. domestic and international law's reluctance to challenge discriminatory cultural norms that harm women. What protection, if any, does law give women in the U.S. and in other countries? Issues surrounding pornography, domestic violence, and the

"battered women's syndrome" might be examined here.

7. Dispute resolution and peaceful, lawful change: The United States is the most litigious society on earth. Why might this be so? Is the adversary system effective in determining "just" solutions? What alternatives have other societies devised to resolve disputes? What alternatives have cultural and economic minorities in the U.S. explored to resolve disputes outside of the formal legal system? (Study Jewish community courts on the Lower East Side in New York City.) What reforms have been suggested to make justice more "swift, certain and sure"?

a. Is non-violent civil disobedience an appropriate technique to employ to effect change in a democratic society? Is violent resistance to an unjust law or legal system ever justifiable?

b. Is our legal system delivering "equal justice under the law" to poor people? (We might explore various systems of legal representation for the poor in other countries.) Why is there such a gap between African-Americans and whites in their belief in the possibility of justice in America? (We might explore the Rodney King beating trial, the L.A. riot and the trials that came in its wake or the perceptions of the O.J. Simpson trial.

Resources for the Curriculum: Although there are many resources from which to gather relevant materials for this curriculum, I will cite some suggested readings for each of the units. Some of these might be used beter by the teacher alone to acquire some necessary background information or understanding; others could be excerpted for student reading; still others could be read in their entirety by students. Legal cases are italicized.

1. Part One:

Magna Carta
Kant, Foundations of the Metaphysics of Morals
Locke, The Second Treatise of Civil Government
Declaration of Independence
Declaration of the Rights of Man and of Citizens
Paine, Rights of Man
Mill, Essay on Liberty
Rousseau, On the Social Contract
Bentham, An Introduction to the Principles of Morals and Legislation
Rawls, "The Right and the Good Contrasted," A Theory of Justice
Hart, "Between Utility and Rights"
Burke, Reflections on the Revolution in France
Marx, "On the Jewish Question"
Tushnet, "An Essay on Rights"
de Bary, Sources of Chinese Tradition
Rahman, "Structure of the Law," Islam
Nasr, Ideals and Realities of Islam
Gluckman, The Judicial Process Among the Barotse of Northern Rhodesia
Canby, American Law in a Nut Shell

2. Part Two:

Blackstone, Commentaries on the Laws of England
Hamilton, The Federalist Papers
Virginia Bill of Rights
Massachusetts Bill of Rights
U.S. Constitution and the Bill of Rights, Amendments 13, 14, 15, and 26
Rights under State Constitutions:
Brennan, "The Bill of Rights and the States: The Revival of State Constitutions as Guardians of Individual Rights:
People ex rel. Arcara v. Cloud Books, Inc.
Ravin v. State
Warren and Brandeis, "The Right to Privacy"
Pavesich v. New England Life Insurance Co.
Remedies under U.S. Law:
Marbury v. Madison
Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics
Henkin, "Is There a 'Political Question' Doctrine?"

Key Cases: Incorporation: *Barron v. Baltimore; Bolling v Sharpe*
The Police Power: *Munn v. Illinois*
Lochner v. New York
Nebbia v. New York

Le Roy Fibre Co. v. Chicago, Milwaukee & St. Paul Ry.
Nollan v. California Coastal Commission
Individual Rights and the Public Interest:
a) National Security:
Haig v. Agee
New York Times Co. v. United States
b) Public Order/ Public Good:
Buchanan v. Warley
Penn Central Transportation Co. v. City of New York
c) Public Health:
Prince v. Massachusetts
Jacobsen v. Massachusetts
Preferred Rights and Compelling Public Interests:
United States v. Carolene Products Co.
Palko v. Connecticut
Conflicting Rights:
New York Times Co. v. Sullivan
Nebraska Press Association v. Stuart
Hudgens v. NLRB
Paul v. Watchtower Bible and Tract Society of New York
Rights Beyond U.S. Borders:
Yick Wo v. Hopkins
U.S. v. Verdugo-Urquidez
U.S. v. Alvarez-Machain
The Chinese Exclusion Case (Chae Chan Ping v. United States)
Kleindienst v. Mantel
Free Exercise and Establishment of Religion Cases involving religious minorities:
General background:
Reynolds v. United States
Sherbet v. Vernier
U.S. v. Ballard
Lynch v. Donnelly
Allegheny County v. ACLU Greater Pittsburgh Chapter
Zurich v. Clause
Native Americans:
Santa Clara Pueblo v. Martinez
Badoni v. Higginson, (10th Cir. 1980)
Sequoyah v. Tennessee Valley Authority (6th Cir. 1980)
Lyng v. Northwest Indian Cemetery Protective Association
Employment Div. of Human Resources of Oregon v. Smith

Jehovah's Witnesses:
Minersville School District v. Gobitis
West Virginia State Board of Education v. Barnette

Amish:
Wisconsin v. Yoder
Mormons:
In Re State ex rel Black (polygamy case from Utah)

3. Part Three: Human Rights Instruments: U.N Charter; Universal Declaration of Human Rights; International Covenant on Civil and Political Rights, Optional Protocols; International Covenant on Economic, Social and Cultural Rights; Convention on the Prevention and Punishment of the Crime of Genocide; International Convention on the Elimination of All Forms of Racial Discrimination; Convention on the Elimination of All Forms of Discrimination Against Women; Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment;
Group Rights: African Charter on Human and People's Rights (articles 19-26)
Self-Determination: Human Rights Committee Report on the *Lubican Lake Band Case*
Maintenance of Group Identity: Convention on the Prevention and Punishment of the Crime of Genocide
Minority Rights: Article 27 of the International Covenant on Civil and Political Rights
Rights of Refugees:UDHR, ICCPR, Convention Relating to the Status of Refugees;
INS v. Cardoza-Fonseca
INS v. Elias-Zacharias
Johnsson, "The International Protection of Women Refugees: A Summary of Principal Problems and Issues"
Miller: "Persecuted Women to Get a Break"
Other Generations of Rights: Declaration on the Right of Peoples to Peace; Declaration on the Right to Development; "Permanent Sovereignty over Natural Resources"

4. Part Four: Place of International Human Rights in U.S. Law:
Paquete Habana
Reid v. Covert
Enforcement of U.S. Human Rights Obligations in U.S.:
Sei Fugii v. State
Rodriguez-Fernandez v. Wilkinson
Garcia-Mir v. Meese
U.S. v. Alvarez-Machain
U.S. Enforcement of International Human Rights Law of Foreign Violations:
Comprehensive Anti-Apartheid Act of 1986
Arms Export Control Act
Trade Act (Jackson-Vanik) on "most favored nation" status
Under Secretary of State for Human Rights and Humanitarian Affairs
Filartiga v. Pena-Irala
Hanoch Tel Oren- v. Libyan Arab Republic
Torture Victims Protection Act of 1991
Frovola v. USSR
Von Dardel (on behalf of Raoul Wallenberg) v. USSR
Enforcement of International Human Rights Law against US in foreign controls

Rights and Remedies under International Agreements:
Estrella v. Uruguay
Boboeram et al. v. Surinam
International Coercive Measures: Non-military and military sanctions
Issues of Humanitarian Intervention

5. Part Five:
Capital Punishment: ICCPR (Article 6); Second Optional Protocol to ICCPR
Furman v. Georgia
Gregg v. Georgia
Thompson v. Oklahoma
Soering v. United Kingdom, Federal Republic of Germany Intervening
Lepp, "The Death Penalty in Late Imperial, Modern and Post-Tiananmen China"
Issues of Autonomy and Privacy:
Abortion:
Warren and Brandeis, "The Right to Privacy"
Meyer v. Nebraska
Pierce v. Society of Sisters
Skinner v. Oklahoma
Coverture: the role of the law in enforcing women's dependency
Comstock Act
Pavesich v. New England Life Insurance Co.
Poe v. Ullman
Griswold v. Connecticut
Eisenstadt v. Baird
Roe v. Wade
Webster v. Reproductive Health Services
Jane Hodgson v. Minnesota
Planned Parenthood v. Casey
German law and decisions: Decision of February 25, 1975; German Abortion Law Since Unification
Opinions of the European Commission on Human Rights, *Bruggemann and Scheuten v. FRG*
Jimmerson, "Female Infanticide in China: An Examination of Cultural and Legal Norms"

Rights of Homosexuals:
Jones v. Hallahan (Kentucky case on sexual preference/identity)
Bowers v. Hardwick
Decision of German Federal Administrative Court
Dudgeon Case, European Court of Human Rights

Rights of Criminal Fair Process:
Pretrial rights:
Mapp v. Ohio
Terry v. Ohio
U.S. v. Leon
Miranda v. Arizona
New York v. Quarles
Tennessee v. Garner
Trial rights of the accused: double jeopardy, habeas corpus, bills of attainder, ex post facto, grand jury,
Barron v. Baltimore
Hurtado v. California
Powell v. Alabama
Gideon v. Wainwright
Palko v. Connecticut
Lewis: Gideon's Trumpet
Kramer: Comparative Civil Rights and Liberties
Freedom of Expression:
Speech:
Gitlow v. New York
Whitney v. California
Brandenburg v. Ohio
Cohen v. California
Texas v. Johnson
Group Libel:
Korematsu v. U.S.
Hirabayashi v. U.S.
Beauharnais v. Illinois
R.A.V. v. City of St. Paul
Wisconsin v. Mitchell
Gunther, "The Skokie Controversy: First Amendment Problems in Efforts to Restrain Nazi Demonstrations"
Kosiek Case, European Court of Human Rights
Stein, "History Against Free Speech: The New German Law Against the 'Auschwitz' and Other--'Lies' "
Conflicting Rights: *Sunday Times Cases* (European Court of Human Rights)
Time Inc. v. Hill
Nebraska Press Association v. Stuart
Youm, "Libel Laws and Freedom of the Press: South Korea and Japan Reexamined"

Equality and Equal Protection of the Laws, Non-Discrimination and Affirmative Action
International Covenant on Economic, Social and Cultural Rights, Article 3
Galanter, "Relevant Provisions of the Indian Constitution"
Racial Discrimination: International Convention on the Elimination of All Forms of Racial Discrimination

Slaughterhouse Cases
Civil Rights Cases
Plessy v. Ferguson
Sweatt v. Painter
Brown v. Board of Education
Regents of the University of California v. Bakke
Loving v. Virginia
Fullilove v. Klutznick
Metro Broadcasting Inc v. Federal Communications Commission
Richmond v. Croson Co.
Shaw v. Reno

Gender Discrimination:
Women and the U.S. Constitution: femme covert, femme sole, dower rights;
U.S. v. Susan B. Anthony
Minor v. Happerset
Bradwell v. Illinois
Muller v. Oregon
Adkins v. The Children's Hospital of the District of Columbia
Hoyt v. Florida
Reed v. Reed
Frontiero v. Richardson
Kahn v. Shevin
Roe v. Wade
Mississippi University for Women v. Hogan
Zwaan-de-Vries v. Netherlands (Human Rights Committee Report)
General Comments of the Human Rights Committee on Principles of Nondiscrimination in the ICCPR
Howard, "Women's Rights in English-speaking Sub-Saharan Africa"
Charlesworth, Chinkin and Wright, "Feminist Approach to International Law"
Meran, "Rape as a Crime Under International Humanitarian Law"
Okin, Justice, Gender and the Family
MacKinnon, "Toward a Feminist Theory of the State"
Chamallas, "Women, Mothers and the Law of Fright," Michigan Law Review, 88, February 1990: 814-64

Nature of Law and Possibility of Peaceful Change:
In addition to case law, there are many possible books and essays to discuss:

Gandhi, Autobiography, All Men are Brothers
Martin Luther King, "Letter from a Birmingham Jail"
Thoreau, "Civil Disobedience"
Antigone
Crito,
Apology

Plato, The Republic
Koestler, Darkness at Noon
de Tocqueville, Democracy in America
Malcolm X, Autobiography
Kafka, The Trial
Forester, A Passage to India
Melville, Billy Budd
Capote, In Cold Blood
Miller, The Crucible
Fugard, My Children, My Africa!
Brecht, The Informer, The Jewish Wife
Doestyevsky, Crime and Punishment
Solzenitsyn, The Gulag Archipelago
Lee, To Kill a Mockingbird
Rose, Twelve Angry Men
Zola, Germinal
Bolt, A Man for All Seasons

Human Rights Case Law, Jurisprudence, Decisions and Digests: There are good sources of information from the following:

A. UNITED STATES SOURCES:
Human Rights Documents: Compilation of Documents Pertaining to Human Rights. Washington, D. C.: U.S. Congress, Staff of House Committee on Foreign Affairs.

Department of State, Country Reports on Human Rights Practices for . . ., Report Subcommittee to the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs. Annual reports to the Congress on human rights around the world.

The Lawyers Committee for Human Rights and Human Rights Watch have regularly issued reviews of the State Department reports.

B. INTERNATIONAL SOURCES:
Commission on Human Rights, Report on the . . . Session. New York: UN, 1946-.
Human Rights Committee, General Comments. New York: UN, 1989-.
Covers the Commission's resolutions and decisions.

Human Rights Committee, General Comments. New York: UN, 1989-. (CCPR/)

Human Rights Committee, Selected Decisions Under the Optional Protocol (Second to Sixteenth Sessions), New York: UN, 1985. (CCPR/C/ OP/1). There is a later compilation as well.

Report of the Committee on Economic, Social and Cultural Rights. New York: UN,

1987-. (ESC/) Reflects consideration given to reports of governments submitted pursuant to the Covenant on Economic, Social and Cultural Rights.

Report of the Committee on the Elimination of Discrimination Against Women. New York: UN, 1981-. (CEDAW/) Reflects consideration given to reports of governments submitted pursuant to the Convention on the Elimination of All Forms of Discrimination Against Women.

Report of the Committee on the Elimination of Racial Discrimination. New York: UN, 1970-. (CERD/) Reflects consideration given to reports of governments under the Convention on the Elimination of All Forms of Racial Discrimination.

Report of the Human Rights Committee. New York: UN, 1977-. (CCPA/) Decisions of the Human Rights Committee submittted under the Optional Protocol to the Civil and Political Covenant. Also includes general comments of the Committee on the meaning of various Covenant provisions.

Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its . . . Session. Geneva: UN, 1946-. Reports of the Sub-Commission's resolution and decisions.

Yearbook on Human Rights. New York: UN, 1946-. Extracts of selected reports on national human rights developments, texts of relevant decisions and descriptions of human rights activities including the specialized agencies of the UN (FAO, ILO, UNESCO, and WHO).

C. NON-GOVERNMENTAL ORGANIZATION (NGO) REPORTS:
There are many NGOs working in the field of human rights that produce excellent country reports on human rights. Among these are:
Amnesty International, 1 Easton Street, London, WC1, 8DJ, U.K.
Human Rights Advoicates, P.O. Box 5675, Berkeley, CA 94705
Human Rights Watch, 485 Fifth Avenue, NY, NY 10017
Africa Watch
Americas Watch
Asia Watch
Helsinki Watch
Middle East Watch
International Human Rights Law Group, 1601 Connecticut Ave., NW, Washington,DC 20009
International League for Human Rights, 432 Park Avenue, NY, NY 10016
Lawyers Committee for Human Rights, 330 Seventh Ave., l0th Floor, NY, NY 10001
Physicians for Human Rights, 58 Day Streeet, Somerville, MA 02144

D. COMPUTER INDICES:
1. Congressional Masterfile (CD-ROM access to Congressional Information Service

for all congressional publications since 1789, by subject, witness, committee, etc.
2. LEXIS (LAWREV contains full text of U.S. law reviews)
3. WESTLAW (full text of selected articles from hundreds of law reviews including many international law journals; contains ABA *Human Rights* in HUMRT database).

Proposed Environmental Justice Curriculum

Although there has been much progress in cleaning up toxic wastes and air and water pollution from the American landscape over the past twenty five years, there are still many challenges to the biosphere here and elsewhere in the world. The environmental crisis facing human beings globally is a fundamental challenge to educators. The challenge of *environmental sustainability*, the ability of people to meet their needs today without jeopardizing the ability of future generations to meet their needs, is essential to confront with students. The sustainability of the earth's limited resources is threatened by the demands generated by continued population growth and the desire to provide the world's poorest people a better quality of life.

During the past twenty years we have witnessed environmental problems of population/food imbalances, energy scarcity, acid rain, toxic and hazardous wastes, massive soil erosion, global atmospheric pollution, forest dieback, massive drought and famine in Africa, a major chemical accident in Bhopal and a near-meltdown of a nuclear plant in Chernobyl. We have endured several serious oil spills, most notably that of the Exxon *Valdez*, and have gone to war in the Persian Gulf in large part to protect our source of oil. Although many environmental laws were passed in the 1970s, there has been an "environmental backlash" in recent years due to the economic recession in the North. In the developing world the drive to produce enough food for a growing population has led to the use of increasingly fragile resources, resulting in rapidly expanding desertification in Africa and deforestation in Southeast Asia and Latin America. Newspapers recently have been filled with news of "fishing wars" between fleets from Spain and Canada, concern over the destruction of old

growth forests in the Northwest United States, international conferences to deal with global climate change, challenges to the Endangered Species, Clean Air and Water Acts, and attempts by the new Republican majority in the House of Representatives to roll back environmental protection laws as too costly in lost jobs and in destruction of private property rights.

Clearly, teachers can play a key role in helping students understand the complexity of these problems and their possible solutions. Students can be responsible agents of change and informed policy makers only if they can analyze information about key problems, weigh conflicting views, and project possible consequences from various proposed solutions. We can expect to find the "right answers" to these complex questions only by preparing citizens to ask the right questions.

The thrust of my proposed environmental justice curriculum is to integrate an ethical and legal analysis with a scientific analysis of environmental problems facing the world. Students should be encouraged to identify environmental problems; collect appropriate information; examine the consequences of their own behavior in light of this information; generate alternative solutions to problems; and evaluate the social, economic and ecological consequences of their proposed solutions. It is important for students to be aware that environmental problems are international issues that have been the cause of tension and conflict between nations and between groups of individuals within nations. Students should also realize that efforts to create effective international institutions and legal frameworks to solve these problems have been undertaken. At Fieldston, this law-related approach could reinforce the basic thrust of the Ethical Issues in Science elective currently offered for science or ethics credit. It would be interesting to explore a team teaching approach to this course. Another possibility would be to offer this course as a one-semester elective in the History Department or incorporate both this environmental component and the expanded

human rights component into a year-long upper level elective.

Students must be exposed to a wide variety of viewpoints in order to develop the knowledge, skills and attitudes necessary for effective global citizenship and environmental literacy. Students should be aware of the interdependence of human beings and the natural world. Individually "rational" decisions, as Garrett Hardin has pointed out in his article "The Tragedy of the Commons," [59] can often result in disastrously irrational long-term outcomes, especially in human exploitation of the common resources of humanity--the air, the oceans, the fisheries, etc. Students must learn to appreciate the huge gap between the developed North and the developing South in economic well-being and use of the earth's finite resources. It is to be hoped that students will also develop their own environmental ethic and will begin measuring the impact that their actions and choices have on the quality of the environment. Because high school students are in the process of formulating their own value systems, it is important that they understand the needs, values and points of view of many others, not only those in the United States but those in the developing world.

The course should confront key questions to help students understand these environmental issues from multiple perspectives. Environmental studies encourage this multiple perspective because ecology emphasizes the interconnectedness of all things. It is logical, therefore, that the scientific, social, political, economic, and ethical implications of people's choices on environmental issues be studied as inextricably linked parts of a whole.

Among the key issues students should explore are the following:

1) Environmental problems as international issues

2) International politics and the difficulty of creating effective environmental institutions

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59 Garrett Hardin, "The Tragedy of the Commons," in Bruce Ackerman, ed., Economic Foundations of Property Law. Boston: Little, Brown and Company, 1975, pp. 2-11.

3) The possibility and importance of creating effective international environmental institutions

4) The problem that developed nations create for the environment: how can prosperity be stimulated while health and resources are protected?

5) The environmental challenge in Eastern Europe: air, water and soil degradation

6) The challenge facing developing nations: Is sustainable development possible when trying to solve simultaneously the problems of poverty, pollution and population?

7) How much does it cost to protect the environment? Lost jobs? Higher taxes? Unnecessary delays? Is it fair to ask the private property owner to absorb the cost of environmental laws? Should the owner be compensated if the value of his property is diminished by environmental protection laws? Is regulation a "taking" under the U.S. Constitution that requires compensation? Is the concept of private property "outdated"? Should private property be seen as one part of an interrelated, increasingly fragile ecosystem in need or careful use and regulation in the long-term public interest?

8) The environment as a security issue: will conflict over renewable resources like water or non-renewable resources like oil be the more likely cause of future international or intergroup conflict? Why?

9) Will global climate change contribute to violent conflict?

10) What have been the successes and failures of international organizations (U.N. Environmental Programme, World Bank, WMO, GEF, etc.) in encouraging environmental sustainability?

11) How have non-governmental organizations, multinational corporations, international groups of scientists and other interest groups influenced the debate on sustainable development?

12) What has been the importance of the Earth Summit held in Rio de Janeiro in 1992? What goals for protecting the environment in the 21st Century were adopted in Agenda 21? Are these realistic goals? Are there other important goals that were not included in Agenda 21?

13) How have international organizations and treaties dealt with the following problems? What are the positions of various interest groups (indigenous peoples, women and children, business interests, religions) on these issues?

a) Ozone depletion

b) Population growth

c) Biodiversity and habitat protection

d) Regional Air Pollution and acid rain

e) Ocean degradation

f) Energy use and global climate change

g) Deforestation and degradation of the soil

Students can examine topics of their own interests but should try to analyze and consider alternative views (from different cultures and peoples around the world) of these complex questions:

1) Does wilderness have intrinsic value?

2) Is population control the key to preventing environmental deterioration?

3) Should risk assessment methods be used to set environmental priorities?

4) Will the "greening" of multinational corporations lead to environmental improvement?

5) Are the effects of acid rain serious enough to justify strict enforcement of clean air legislation?

6) Are poorer peoples and neighborhoods being asked to absorb a disproportionately higher burden in disposing of wastes? How are these groups and neighborhoods organizing to press their demands for environmental justice?

7) Is the widespread use of pesticides required to feed the world's people? What risks to human, animal and habitat health have resulted from overreliance on pesticides? What alternatives exist to pesticide use?

8) Is there sufficient scientific certainty about global warming to require aggressive international controls on energy use? What changes in our way of life might be required to halt and reverse global warming?

9) Can incentives devised by the developed North help combat tropical deforestation? What is the role of indigenous groups in safeguarding the natural resources of tropical forests?

10) What is the influence of religion, social mores, economic structures, politics and legal systems on the environment? What are the connections between scientific research and technology and the health of the environment? What has been the consequence of communism and capitalism on the environment?

11) Would sustainable development be more easily achieved by relying on international cooperation or by relying on private property, a free market and strong liability laws?

12) Will the newly reformed GATT (General Agreement on Tariffs and Trade) pose grave dangers for the global environment by forcing the overturning of environmental regulations that might violate world trade rules?

13) How many is "too many" people? What is the "global carrying capacity?"

14) What alternatives to reliance on fossil fuels might be developed? What are the advantages and disadvantages of nuclear power, solar power, geothermal power, wind power, biofuels?

15) What is the most effective way to preserve the habitats of endangered species? Since extinction of species is part of natural history, why spend a great deal of money and effort to stem this natural tide?

16) How and why have women been overlooked in solving the problems of sustainable development? What reforms have been suggested to empower women and to enhance their ability to use natural resources more wisely?

Resources for the Environmental Justice Curriculum

There are many resources for the environmental justice/stewardship portion of the curriculum. The Fall 1993 issue of the magazine Update on Law-Related Education , for example, focuses entirely on the issue of global environmental issues and the law. These are a few of the many interesting teaching strategies suggested.

1. A comparative case study of how Japanese and American citizens used the law to change environmental attitudes and behaviors in the aftermath of two environmental disasters at Minamata (mercury poisoning) and Love Canal (toxic waste poisoning) in New York State is especially provocative. Through a simulation, students will become mediators who will try to resolve the disputes between the companies responsible for the poisonings and the victims.

2. Students can hold a "seventh generation mock hearing." In many Native American tribes decisions are made with the interests of those seven generations to come in mind. Students can act as judges who will rule on these questions: Do future generations have standing to sue? Should the court appoint a guardian to represent future generations? Who could fairly represent the interests of future generations? If the court decides that it will intervene in the interests of future generations, what kind of current activities are likely to be seen as putting environmental sustainability at risk? If the court rules that it will intervene, how long should this intervention last?

Readings: The following bibliography should be helpful for students and teachers.

Allen, John L., Environment 94/95, Guilford, CT: The Dushkin Publishing Group, Inc., 1994. This paperback explores many issues on environmental degradation, pollution, sustainable development, population and hunger, alternate sources of energy, global climate change, ozone depletion, biodiversity, and habitat destruction.

Benedick, Richard Elliot, Ozone Diplomacy: New Directions in Safeguarding the Planet, Cambridge, Mass: Harvard University Press, 1991. This book traces the successful international negotiations to protect against ozone depletion.

Callies, David, ed., After Lucas: Land Use Regulation and the Taking of Property Without Compensation, Chicago: American Bar Association, 1993. This book explores the continuing controversy surrounding the impact of environmental protection laws on private property owners' rights to use their property without compensation.

Deudney, Daniel, "The Cause Against Linking Environmental Degradation and National Security," Journal of International Studies, 1990, Vol. 19, No. 3, pp.461-76. A view opposite that of Homer-Dixon and others.

Hardin, Garrett, "The Tragedy of the Commons," 162 Science, 1243-48, in Bruce Ackerman, ed., Economic Foundations of Property Law, Boston: Little, Brown and Company, 1975, pp. 2-11. A brilliant metaphor about the irrational and devastating consequences of individually rational decisions by users of common resources like the oceans, the atmosphere and fisheries.

Homer-Dixon, Thomas F., "On the Threshold: Environmental Changes as Causes of Acute Conflict," International Security, Fall 1991 (Vol. 16, No. 2) This provocative article outlines the possible link between environmental change and conflict.

Goldfarb, Theodore D., Taking Sides: Clashing Views on Controversial Environmental Issues, 5th edition, Guilford, CT: The Dushkin Publishing Group, Inc., 1993. A very readable series of articles with different points of view on vital issues.

Kaplan, Robert D., "The Coming Anarchy," in Atlantic Monthly, February 1994, pp.44+. An alarmist point of view of the relationship between increasing environmental scarcity and political, social and economic unrest.

Kegley, Charles and Eugene Wittkopf, World Politics: Trend and Transformation, 4th edition, New York: St. Martin's Press, 1993. An upper level textbook dealing with many international relations problems and the environment.

Mertz, Gayle and Susan McLaughlin, Environmental Law and Individual Liberties, Boulder, CO: Boulder County Safeguard Law-Related Education Program. A teacher's guide to lessons addressing the tension between the need for regulation and law in the face of diminishing environmental quality and the individual's right to act and believe in ways that threaten further environmental harm.

Moffett, George, "The Population Question Revisited," World Population, Summer 1994, pp. 54-79. A review of the demographic challenge of rising world population.

"The Right to Sustainability: The Environment, the Citizen and the Law," Update on Law-Related Education, Vol 17, No. 3 Fall 1993, Chicago: American Bar Association, 1993. An entire issue devoted to the environment and the law with many interesting simulations and other suggested lessons.

Roddewig, Richard and Christopher Duerksen, Responding to the Takings Challenge, Chicago: American Planning Association, 1989. Another valuable resource for dealing with the conflict between environmental protection laws and the rights of private property owners.

Sax, Joseph L., "Takings, Private Property and Public Rights," 81 Yale Law Journal, 149-186, (1971), in M. Munzer, Seminar in Governmental Takings of Private Property, Fall 1981, New York: Columbia University School of Law, 1981.

Stone, Christopher, "Should Trees Have Standing? Toward Legal Rights for Natural Objects," Southern California Law Review, Vol. 45, 1972. Is there such a thing as a right for an environmental entity? Should there be a right to a quality environment for future generations?

World Resources Institute, World Resources 1994-95, New York: Oxford University Press, 1994. An invaluable source of information combining scientific data on many environmental problems with extensive essays.

Youngblood, Patricia, Shaping the Environment: Cases and Materials, Albany, NY: NYS Education Department, Law Youth and Citizenship Program with Schools of Maryland, Inc. of the Maryland State Bar Association and the Maryland State Education Department, 1990. Resource examining some of the landmark cases in environmental law.

Key Cases: The following cases deal with the "takings" controversy: when does regulation become so destructive of private property rights that it must be compensated?

Mugler v. Kansas (1887)
Pennsylvania Coal Co. v. Mahon (1922)
Penn Central Transportation Co. v. City of New York (1978)
William C. Hass & Co. v. City and County of San Francisco, 605 F. 2d 1117 (9thCt., 1979)
Agins v. City of Tiburon (1980)
Keystone Bituminous Coal Association v. De Benedictis (1987)
First Evangelical Lutheran Church v. County of Los Angeles (1987)
Nollan v. California Coastal Commission (1987)
Loretto v. Teleprompter Manhattan CATV Corp. (1982)
Lucas v. South Carolina Coastal Council (1992)

Techniques To Encourage Constructivist Inquiry

There are many techniques appropriate to a law-related human rights and environmental justice curriculum to encourage students to become active learners.

1) Case studies: Students can investigate issues raised by real cases or hypothetical scenarios. They can research issues of interest to them and create their own case studies for classmates to discuss and debate.

2) Roleplaying: Students can write and act in their own scripts to illuminate issues; generate solutions to problems; defend positions; debrief and discuss strengths and weaknesses of alternative perspectives;

3) Surveys: Students can devise questionnaires to query their classmates or others in and out of the school community about due process in disciplinary procedures, student rights, human rights and environmental issues; make inferences from their data; report their conclusions and make recommendations for change.

4.) Mock trials or appellate hearings: Students research the issues; find relevant legal precedents; frame and present persuasive arguments for the appellant and the

respondent; anticipate and rebut counterarguments; roleplay attorneys, witnesses, and judges. Sometimes two days of back-to-back appellate hearings can examine the same issue from different perspectives. For example, on one day students might argue the *Brown v. Board of Education* case which resulted in the order to desegregate public schools and stated that "separate but equal" separation on the basis of race was not "equal protection under the law." The next day students could argue a case which deals with the desire of some school districts to create public schools open only to black male adolescents to meet their special needs. Is "voluntary separation" in the public schools a good idea? Does the fact that segregation of the races is voluntary in this case make it constitutionally permissible? The purpose of this exercise (and the entire course) is to *complicate* the thinking of students, not to confuse them.

5.) Debates: Students research issues of interest to them; gather relevant materials; frame and present persuasive arguments; anticipate and rebut counterarguments; serve as judges who assess the analysis, reasoning, argument and delivery of the participants as well as the merits of the case.

6.) Field Trips: Students might make visits to the courts to follow the stages of the criminal justice system from arraignment, to plea bargaining, to pretrial hearings, and actual trials.

7.) Interviews: Students might interview prosecutors, defense attorneys, judges and probation officers as well as family court judges and social workers who work with children and families in crisis.

8) Hearings, conferences or student forums: Students could identify a problem to be analyzed; research some possible alternative solutions; invite outside experts to talk on the problems from multiple perspectives; discuss the advantages and disadvantages of different approaches; and generate a conference report of their

findings. These conferences could involve the wider school community or delegates from neighboring schools to discuss the problem chosen. Productive partnerships or bridges to local public schools could be created by inviting their students to work in teams with your students on a problem. Some of my Fieldston law students, for example, have worked with teens from all over New York City to devise peer educational programs to combat violence in the schools.

9.) Simulations: Students can play roles of participants in simulations of committee hearings, Congressional conferences, and international environmental conferences on global climate change or biodiversity. They will have to research the problem carefully, particularly the likely concerns of "their" nations or interest groups.

10.) Community Service: Students who have a particular interest in the law as a vehicle for positive social change can be of direct service to others and learn a great deal as well. The Fieldston Ethics and Community Service Department has long emphasized the educational value of service to others. Although it has extensive ties to many service agencies, I would like to expand the roster of placements for internships or service to private or public agencies that deliver legal services to children, families in crisis, victims of crime or the homeless. It might be possible to explore this idea with the Victims Services Agency and Lawyers for Children in New York City, which have both welcomed Fieldston law students on field trips. Through the Victims Services Agency, some Fieldston students have worked with student representatives from youth groups and schools to combat violence in the city.

11.) Direct action: Students may organize letter-writing drives to governmental officials to put pressure on them to free political prisoners or to improve human rights in cooperation with Amnesty International, Oxfam or Human Watch. They may organize educational pamphleting or lobbying efforts on environmental matters in the city, state and national legislatures. They may organize fund-raising drives for UNICEF,

Greenpeace, Sierra Club, Oxfam or Amnesty International.

12.) Use of Technology: Students will be working increasingly over the next few years with computers, CD-ROM disks, television screens and overhead projectors equipped with Liquid Crystal Displays. This technology will enable teachers to bring interactive resources into the classroom to encourage constructivist learning by students. Many of the activities discussed above will be enhanced or made easier as technology becomes a common feature of our teaching and learning. Certainly, links to people and information sources around the world will be made much more accessible by using this technology. For example, classes from different regions in the U.S. or different countries can work together on a project--perhaps the discussion of a proposed treaty to protect forests and biodiversity. Students can share data, interpret that data, and discuss the disadvantages and promises of divergent proposals to solve problems. This type of national and international student forum can make cultural differences and points of view much more real than only reading about a problem.

Are teachers reduced to computer techies? Not at all. Teachers must still create interesting problem-solving tasks and encourage students to challenge ideas and make connections with fellow learners in the school and around the world. Teachers must continue to facilitate student projects; help students find the information they need; guide them in synthesizing the data and in organizing their reports and proposals; and encourage students to reflect critically on their learning. The teacher can no longer pretend to be the sole repository of knowledge, however. Students can use computer-assisted legal research services that extend their information sources far beyond the capacities of a single classroom or school library. They can use e-mail to check out their ideas with other students and interested adults. Students will use technology to collect relevant information, organize it and communicate it to others in meaningful dialogue with others, not only with the teacher.

Implementation of the Human Rights/ Environmental Justice Curriculum

A multicultural, global law-related study of controversial issues need not remain, not ideally should it remain, within the context of separate electives like the Law and Society course I teach at Fieldston. Teachers of many disciplines can incorporate more law-related material into their own courses. For example, science teachers could certainly focus on the current impact of environmental laws in the U.S. like the Clean Water Act or the Endangered Species Act or discuss the problem of environmental sustainability by analyzing international agreements on ozone, global warming, biodiversity and ocean fisheries in an ecology unit.

At Fieldston my ultimate hope is that a human rights, civil liberties and environmental law focus might result in a new interdisciplinary linkage of colleagues from the history, English, science and ethics departments. If we can re-think the somewhat arbitrary division of learning into departmental "turfs," we might better enable our students to handle competently the complex, interdisciplinary problems with which they will be struggling in the 21st century. A new year-long course might be one way of incorporating the insights of various disciplines. In dialogue with colleagues, I hope to begin a conversation about how best to work toward a more interdisciplinary, multicultural curriculum. However, next year I will probably try to broaden my own law elective to move toward a more global, cross-cultural approach that stresses concepts of *reciprocity, human dignity and solidarity* in addition to the concepts of freedom, duties, obligations, conflict resolution, justice and equality. We will examine *rights* of all kinds (human, natural, civil, political, legal, economic, individual, group, gender, minority, social, cultural and environmental). Just as important, however, we will struggle with the *duties* of responsible national and global citizenship.

I would welcome any reaction, criticism or feedback from others who read this project. I hope there are other teachers who share my vision of an interdisciplinary approach to learning that is centered on exploring the vital issues of our times. I have tried to make a case that students in the 21st century need to understand and appreciate the multiplicity of perspectives and forces complicating solutions to the complex challenges of human rights and environmental stewardship. I hope that the philosophical and pedagogical basis, the curricular approaches outlined in the body of this paper, a few sample case studies in the appendix, the extensive list of legal cases, the bibliography of other resources, and the essential questions I have posed will be helpful to other teachers interested in a law-related interdisciplinary curriculum.

Upon my return to the Fieldston School next fall, I hope that these transformations in the Law and Society course will encourage my students to see themselves as autonomous, moral decision makers who are responsible for their own learning and for making responsible, caring decisions throughout their adult lives. I hope they will be empowered with the knowledge, skills and attitudes needed to function effectively in a world of cultural diversity and limited resources.

APPENDIX

Case Study: Should the U.S. Ratify the Covenant on Economic, Social and Cultural Rights?

Task: The class will act as the Senate Committee on Foreign Relations and conduct a hearing on whether the U.S. should ratify the Covenant on Economic, Social and Cultural Rights. Some will testify in favor of ratification; others against. Still others will question the witnesses and debate the issues. In deciding whether to vote for U.S. ratification, consider the following questions:

1) What is the significance of President Carter's signature of the Covenant?

2) Has the U.S. already accepted economic, social and cultural rights articulated in other international instruments?

3) What advantages might the U.S. government gain by ratifying? What advantages might U.S. citizens gains through ratification? Are there disadvantages in not ratifying?

4) Are there disadvantages in ratifying?

5) What are the differences between civil and political rights and economic, social and cultural rights? In what ways do implementation and enforcement of the two sets of rights differ?

6) Are there conflicts between achievement of civil and political rights and achievement of economic, social and cultural rights?

7) What obligations would the U.S. assume by ratifying the Covenant? Do you think it likely that the U.S. would ever be found in violation? What would happen if the U.S. failed to find shelter for the homeless; reduced food stamps; reduced Medicare benefits for the elderly and Medicaid for the poor; or reduced aid to families with dependent children?

8) How is a government's compliance monitored? Could the monitoring be improved? What is the role of non-governmental organizations (NGOs) in this regard?

9) Are there differences between economic, social and cultural *rights* and economic, social and cultural *goals*?

10) If the U.S. were to ratify the Covenant should there be reservations, declarations, and understandings? Should the Senate accept all of President Carter's 1978 proposals? Should it propose some of its own?

Resources:

Excerpts from FDR's "Four Freedoms Speech" and 1944 State of the Union Address
Trubek,"Economic, Social and Cultural Rights in the Third World: Human Rights Law and Human Needs Programs"
Alston and Quinn, "The Nature and Scope of States Parties' Obligations Under the International Covenant on Economic, Social and Cultural Rights"
Alston, "Out of the Abyss: The Challenges Confronting the New UN Committee on Economic, Social and Cultural Rights"
Dobriansky, "Should the U.S. Ratify the Covenant on Economic, Social and Cultural Rights?"
Carter, "Reservations, Understandings, Declarations, Etc."
Rodley, "On the Necessity of U.S. Ratification of the International Human Rights Conventions"
Marks, "Emerging Human Rights: A New Generation for the 1980s?"

Source: Frank Newman and David Weissbrodt, International Human Rights. Cincinnati: Anderson Publishing Co., 1990.

Case Study: Cultures In Conflict

Introduction: Increasingly in our pluralistic society, the U.S. legal system is challenged to determine just solutions to legal and social problems in which immigrants or ethnic Americans have broken the law because they have followed their own cultural traditions or the legal traditions of their native countries.

Issue: To what extent should cultural background be considered in determining guilt or innocence? To what extent can and should our judicial system accommodate cultural differences and still effectively preserve the values and norms of society as a whole?

Context: On January 20, 1984, Fumiko Kimura, a Los Angeles resident for the past 14 years, received a call from a Japanese-American woman claiming to have been Mr. Kimura's mistress for the past three years. The mistress wanted to end the affair honestly by telling Mrs. Kimura about it. Nine days later, Mrs. Kimura walked into the ocean carrying her six-month old daughter and four-year old son. She attempted to drown herself and her children. Two teenagers spotted three bodies floating in the ocean and tried to rescue them. Both children died, but Mrs. Kimura was saved.

When interrogated by the police, Mrs. Kimura explained that the knowledge of her husband's affair had brought shame and humiliation on her and her entire family because it meant that she had failed as a wife. In Japanese cultural tradition, suicide is considered an honorable way to rid the family of the shame caused by such a failure. Thus, she had chosen to commit a Japanese ritual known as parent-child suicide, or *oysko-shinjo*. According to her culture, children are considered an extension of the mother, not separate individuals. Thus, to commit suicide the mother must kill not only herself but also her extensions, her children. To leave the children behind would make them the target of contempt by society. In Japan a mother who kills herself but leaves her children behind would be criticized far more harshly than a mother who also takes the lives of her children. Growing up motherless, the products of a failed marriage, would make the children outcasts for life.

Mrs. Kimura has been charged with two counts of first-degree murder under California law. She faces a possible death sentence if convicted.

Questions: Should Mrs. Kimura's attorney be allowed to present a "cultural defense," that a person's culture should be the key factor in determining her guilt or innocence? A cultural defense would be based on the principle that if an act is not a crime in the accused's native culture, then the accused has no awareness of having broken a law or committed a crime.

The judge will be holding a hearing to determine whether to allow a cultural defense: would this undermine the goals of procedural justice: upholding the fairness of the way information is gathered and decisions are made; ensuring that wise and just decisions

are made on the basis of all necessary information being gathered and upholding privacy, human dignity and freedom. Before making a final decision, the judge will hear arguments from the defense attorney and two experts of his choice. The prosecutor will oppose this request for a cultural defense and call two experts of her choice. After hearing the arguments, the judge will make a ruling on whether to allow a cultural defense in this case.

Roles:

1. Defense attorney: you want to acquit your client and feel the cultural defense may be your best hope. Frame your argument on the issue of procedural justice; try to find arguments from other cases which might serve as helpful precedents.
2. Social worker: specializing in helping new immigrants adapt to the U.S., you are often an "expert witness" on cultural conflicts. By explaining the cultural background of the defendant, make a case for the cultural defense.
3. Japanese-American Association spokesperson who has organized a petition drive which has resulted in 2000 signatures in support of Mrs. Kimura: argue for humane and fair treatment of Mrs. Kimura as a product of her culture.
4. Prosecuting attorney: although sensitive to the tragic nature of this case, you are concerned about setting a precedent in a county with hundreds of different ethnic groups; your job is to protect all of society and uphold its laws
5. Spokesperson from Asian-American Lawyers Association: being an Asian yourself, you are very aware of the cultural dimensions of this case but feel that allowing a cultural defense would conflict with the fundamental principle of equal justice for all because it would provide special treatment for some immigrant groups. It would perpetuate and emphasize the differences of these groups and might cause ill will and prejudice to grow against these groups.
6. Legal Historian, UCLA: you are opposed to the use of a cultural defense in criminal trials because you think it undermines the legal philosophy and historical practice of our judicial system.
7. Judge: This is the first time you have faced a request for a cultural defense. Can the accused receive a fair trial if she is not allowed to emphasize the role her culture played in motivating her actions? On the other hand, will the interests of society and equal justice under the law be undermined if such testimony provides an excuse for her crime? Anticipating the range of arguments, you should prepare some questions for each of the witnesses to clarify the issues and be prepared to give a reasoned opinion for your final decision.

Although only 7 people will be involved in the roleplay, the entire class should work in small groups to generate arguments for and against the use of a cultural defense. All students should be aware of arguments on both sides because they may have to respond to challenges to their own points of view. Groups should report their ideas to the entire class. Arguments should be placed on the board by group representatives so that many ideas are generated before the actual hearing on the second day. After the hearing, students should analyze the way their thinking has changed. Another possible way to extend the same issues raised in this case might focus on the wisdom

of allowing the "battered women's syndrome" to be used by women accused of killing their abusive spouses or lovers.

Case Study: Cultural Relativity In Human Rights Law

Question: What are the origins of human rights in international human rights instruments? Is there room for cultural relativity in human rights law?

Context: The Islamic Penal Code in the Islamic Republic of Iran and the right to be free from torture of other cruel, inhuman or degrading treatment or punishment. This right appears in many human rights instruments, principally Article 5 of the Universal Declaration of Human Rights and Article 7 of the Covenant on Civil and Political Rights

Task: This is a roleplaying exercise in which members of the group will be assigned roles as either members of the Human Rights Committee or representatives of Iran. A wide range of countries will be represented in the membership of the committee, with at least one member espousing each of the theories of rights identified in question 7. Although the following questions are written from the point of view of the members of the Human Rights Committee, students should also consider these issues from the perspective of the representatives of Iran.

1. As a member of the Human Rights Committee, what questions would you ask the Iranian representative?

2. How would you argue to the Iranian government that it should refrain from crucifying its citizens, amputating their fingers or whipping them?

3. How would you try to convince the government to comply with the Covenant on Civil and Political Rights?

In preparing questions and responses, consider the following:
4. Would you cite Shari'a provisions that appear to be consistent with international norms?

5. What are the precise norms Iran arguably has violated? Is there a specific norm against chopping off fingers? Might precision or lack thereof in the international norms affect your success in convincing Iran to comply?

6. When did Iran ratify the Covenant on Civil and Political Rights? Is that date significant? Do you think the incumbent government wants to comply? Could they get out of it? Have they tried?

7. Assume that these are the leading human rights theories: the natural law view, the positivist view, the Marxist view, the cultural relativist position and the critical-legal

view. Which might be most helpful in convincing Iran? Why?

8. Is there anything distinctive about the source of authority upon which rights theories are based that will assist or hinder you in persuading Iran to comply with international norms?

9. What generally is the source of rights in UN human rights instruments, and what influence might that source have on Iran?

10. What is the benefit of calling something a right? Is there no right without a remedy? What sort of remedy does international human rights law provide?

11. Why do government obey or disobey laws? Why do individuals obey or disobey laws?

12. Is it reasonable to anticipate universal compliance with international human rights law? Is there universal respect for ordinary legal norms, such as the prohibition of burglary?

13. Should the international community expect countries with varying civil, political, economic, social, and cultural traditions to respect human rights standards in the same ways? Is there room for diversity?

Resources: The Universal Declaration of Human Rights (UDHR)
The International Covenant on Civil and Political Rights (ICCPR)
Islamic Penal Code Provisions
Excerpts of Human Rights Committee, Consideration of Reports Submitted by States Parties under Article 40 of the ICCPR--1982
Report of the Human Rights Committee--1982
Preliminary Report by the Special Representative of the Commission on Human Rights on the Human Rights Situation in the Islamic Republic of Iran--1985
International Law prohibition of torture and other cruel, inhuman or degrading treatment or punishment
Torture Convention
European System--cases involving British treatment of Northern Ireland detainees and the birching (caning) of a 15 year old boy on the Isle of Mann in Britain
Excerpts on the theoretical foundations of human rights: natural law approach; positivist approach, basic Islamic constitutional (Shariah) concepts; the Marxist view; the cultural relativist position and the critical-legal view.
Morsink: "The Philosophy of the Universal Declaration of Human Rights"
D'Amato: "Is International Law really 'Law'?"
Donnelly: "Cultural Relativism and International Human Rights Law"

Source for Materials: Frank Newman and David Weissbrodt, International Human Rights, Cincinnati: Anderson Publishing Co., 1990.

The Situation in Iran

Creation of the Islamic Republic of Iran: In January 1979 the Shah of Iran was forced to abdicate under pressure of violent resistance to his continued rule. In place of the Shah's westernized government the resistance instituted a republic founded on the tenets of Islam. To implement this transformation, the new government created a system of revolutionary courts, military police and provisional laws. One of the major projects of the new government was to adopt an Islamic penal code. The following excerpt examines three parts of the Islamic Penal Code of Iran: *Ta'azirat, Hodoud, and Qesas.*

Source: Amnesty International, Iran: Violations of Human Rights: Documents sent by Amnesty International to the Government of the Islamic Republic of Iran (1987)

The Universal Declaration of Human Rights (Article 5), the International Covenant on Civil and Political Rights (Article 7) and several other human rights instruments forbid torture or cruel, inhuman or degrading treatment or punishment.

Article 38 of the Constitution of the Islamic Republic of Iran is consistent with these international norms in specifying:

> Any form torture for the purpose of extracting confessions or gaining information is forbidden. It is not permissible to compel individuals to give testimony, make confessions, or swear oaths and any testimony, confession or oath obtained in in this fashion is worthless and invalid. Punishments for the infringement of these principles will be determined by law.

Other provisions in the Islamic Penal Code of Iran appear to forbid torture. Article 58 of the *Ta'azirat* forbids physical ill-treatment in order to obtain a confession, thus rendering the infliction or ordering of such acts punishable offenses. Article 49 of *Hodoud* and *Qesas* states: "Retribution by a blunt and unsharp instrument causing torment to the criminal is not permitted."

The Islamic Penal Code of Iran, however, contains several provisions which impose punishments, constituting torture or cruel, inhuman, or degrading treatment or punishment. The punishments include stoning, crucifixion, mutilation and flogging.

A. Stoning: Article 119 of the Law of *Hodoud* and *Qesas* makes clear that the purpose of the punishment of stoning is the intentional infliction of grievous pain leading to death. With respect to the penalty for adultery, for example:

> In the punishment of stoning to death, the stones should not be too large so that the person dies on being hit by one or two of them; they should not be so small either that they could not be defined as stones.

B. Crucifixion: Article 207 of the Law of *Hodoud* and *Qesas* also makes clear that the purpose is the intentional infliction of severe pain or suffering which may led to death.

The crucifixion of a *mohareb* [at enmity with God] and *mofsed fil arz* [corrupt on earth] shall be carried out by observing the following conditions:

a. the manner of tying does not cause his death
b. He does not remain on the cross for more than three days; but if he dies during the period of three days, he may be brought down after his death;
c. If he remains alive after three days, he must not be killed.

C. Mutilation: The Law of *Hodoud* and *Qesas* contains provisions calling for amputation of limbs and mutilation of other parts of the body for offenses as being at enmity with God or corrupt on earth under Article 208, theft under Article 218 and intentional mayhem or inflicting injury to a limb under Articles 55-80. . . Article 218 prescribes the manner in which amputation should be inflicted.

Punishment of *hard* or theft for the first time is the dismembering of four fingers of the right hand of the thief from the fingers' extremity so that only the thumb a and palm of the thief remain; for the second time, the dismembering of the left foot of the thief from the lower part of the protrusion so that half his foot and part of the place of anointment remain; for the third time the thief is condemned to life imprisonment; for the fourth time, if he commits theft in the prison, he shall be condemned to death.

BIBLIOGRAPHY

Allen, John L., ed., Environment 94/95, Guilford, CT: The Dushkin Publishing Group, 1994.

American Bar Association Special Committee on Youth Education for Citizenship, Joel Henning, Project Director, Mandate for Change: The Impact of Law on Educational Innovation, Chicago: American Bar Association, 1980.

American Law Institute-American Bar Association, International Human Rights, ALI-ABA Course of Study Materials, American Law Institute, 1989.

Bell, Benjamin, Bareiss, Ray and Beckwith, Richard, "Sickle Cell Counselor: A Prototype Goal-Based Scenario for Instruction in a Museum Environment," in The Journal of the Learning Sciences, 1993/1994, 3 (4).

Bellah, Robert N., Richard Madsen, William Sullivan, Ann Swidler, and Steven M. Tipton, Habits of the Heart: Individualism and Commitment in American Life, Berkeley, CA: University of California Press, 1985.

Boulding, Elise, Building a Global Civic Culture, New York: Teachers College Press, Columbia University, 1988.

Boulding, Kenneth, The World as a Total System, Beverly Hills, CA: Sage Publications, 1985.

Cary, Eve and Kathleen Willert Peratis, Woman and the Law, Skokie, Illinois: National Textbook Company, 1990.

Center for the Study of Human Rights, Twenty-Five Human Rights Documents, New York: Center for the Study of Human Rights, Columbia University, 1994.

Cushman, Robert F., Leading Constitutional Decisions, 18th edition, Englewood Cliffs, NJ: Prentice Hall, 1992.

Dewey, John, Democracy and Education, New York: Macmillan, 1916.

_____, Moral Principles in Education, Boston: Houghton Mifflin Co., 1909; reprint Carbondale, Illinois: Southern Illinois University Press, 1975.

_____, The Public and Its Problems, Athens, Ohio: Swallow Press, Ohio University Press, 1988 reprint, originally published New York: H. Holt, 1927.

Duhon-Sells, Rose M. and Pitts, Emma Thomas, A Vision of Multicultural Education for the Year 2000, Lewiston, NY: The Edwin Mellen Press, 1994.

Fannie Lou Hamer High School, Graduation Requirements, (handout), September 1994.

Fullan, Michael G. with Suzanne Stiegelbauer, The New Meaning of Educational Change, New York: Teachers College Press, Columbia University, 1991.

Fyfe, Alec, and Peter Figueroa, eds., Education for Cultural Diversity: The Challenge for a New Era, London: Routledge, 1993.

Gibson, William M., Lessons in Conflict: Legal Education Materials for Secondary Schools, Boston: Law and Poverty Project, Boston University School of Law, 1971.

Goldfarb, Theodore D., ed., Taking Sides: Clashing Views on Controversial Environmental Issues, 5th edition, Guilford, CT: The Dushkin Publishing Group, Inc., 1993.

Goodlad, John I., A Place Called School: Prospect for the Future, New York:McGraw-Hill Book Co., 1984.

Grossberg, Michael, Governing the Hearth: Law and the Family in Nineteenth Century America, Chapel Hill, NC: The University of North Carolina Press, 1985.

Hall, Kermit, ed., By and For the People: Constitutional Rights in American History, Arlington Heights, Illinois: Harlan Davidson, Inc., 1991.

Henkin, Louis, Lori Damrosch and Daniel Leebron, Human Rights: Course Readings, 3 volumes, New York: Columbia University School of Law, 1994.

Hodgkinson, Harold, All One System: Demographics of Education, Kindergarten through Graduate School, Washington, D.C.: Institute for Educational Leadership, Inc., 1985.

Jacobs, Heidi Hayes, ed., Interdisciplinary Curriculum Design and Implementation, Alexandria, VA: Association for Supervision and Curriculum Development, 1989.

Jones, Eileen Baglin and Neville Jones, eds., Education for Citizenship: Ideas and Perspectives for Cross-Curricular Study, London: Kogan Page, 1992.

Kegley, Charles and Eugene Wittkopf, World Politics: Trend and Transformation, 4th edition, New York: St. Martin's Press, 1993.

Kerr, Clark, Higher Education Cannot Escape History: Issues for the Twenty-first Century, Albany, NY: State University of New York Press, 1994.

Lasch, Christopher, The Minimal Self, New York: W. W. Norton, 1983.

Lewis, Anthony, Gideon's Trumpet, New York: Vintage Books, Random House, 1966.

Lynch, James, Multicultural Education in a Global Society, London: The Falmer Press, 1989.

Mason, Alpheus and Donald Stephenson, American Constitutional Law: Introductory Essays and Selected Cases, l0th edition, Englewood Cliffs, NJ: Prentice-Hall Inc., 1993.

McDonald, Laughlin, Racial Equality, Skokie, Illinois: National Textbook Company, 1985.

McNeill, William H., Mythistory and Other Essays, Chicago: University of Chicago, 1986.

Mondschein, Eric, "Technology and Law-Related Education," Law Studies, Vol. XVIII, Number 1, Spring 1993, Albany, NY: Law, Youth and Citizenship Program, NYS Education Department, 1993.

Nasr, Seyyed Hossein, Ideals and Realities of Islam, London: Aquarian Press, 1994.

National Commission on Excellence in Education, A Nation at Risk: The Imperative for Educational Reform, Washington, D.C.: U.S. Government Printing Office, April 1983.

Newman, Frank and David Weissbrodt, International Human Rights, Cincinnati, Ohio: Anderson Publishing Co., 1990.

Noddings, Nel, Caring: A Feminine Approach to Ethics and Moral Education, Berkeley, CA: University of California Press, 1984.

_____, The Challenge to Care in Schools: An Alternative Approach to Education, New York: Teachers College Press, Columbia University, 1992.

Okin, Susan Moller, Justice, Gender, and the Family, New York: Basic Books, Harper Collins, 1989.

Perkins, David, Smart Schools: From Training Memories to Educating Minds, New York: Free Press, Macmillan, Inc., 1992.

Phelan, Patricia and Ann Locke Davidson, eds., Renegotiating Cultural Diversity in American Schools, New York: Teachers College Press, Columbia University, 1993.

Pospisil, Leopold J., The Ethnology of Law, New Haven, CT: Human Relations Area Files, 1985.

Presser, Stephen B. and Jamil S. Zainaldin, Law and Jurisprudence in American History: Cases and Materials, 2nd ed., St. Paul, MN: West Publishing Co., 1989.

Rahman, Faslur, ed., "The Structure of the Law," Islam, Chicago: University of Chicago Press, 1979.

Rawls, John, A Theory of Justice, Cambridge, MA: Harvard University Press, 1971.

Reagan, Ronald, "The State of the Union," Address delivered to Joint Session of Congress, February 4, 1986, in Weekly Compilation of Presidential Documents, Vol 22, no. 6, Washington, D.C.: U.S. Government Printing Office, Feb. 10, 1986.

Report of the Commissioner's Task Force On Minorities: Equity and Excellence, A Curriculum of Inclusion, Albany, NY: New York State Department of Education, 1989.

Rosen, L., Anthropology of Law: Readings, New York: Columbia University School of Law, 1988.

Shapiro, H. Svi and Purpel, David E., eds., Critical Social Issues in American Education: Toward the 21st Century, New York: Longman, 1993.

Shattuck, John H., Rights of Privacy, Skokie, Illinois: National Textbook Company, 1989.

Sizer, Theodore, Horace's Compromise: The Dilemma of the American High School, Boston: Houghton Mifflin Co., 1984.

_____, Horace's School: Redesigning the American High School, Boston: Houghton Mifflin Co., 1992.

Starr, Isidore, Justice: Due Process of Law, St. Paul, MN: West Publishing Company, 1981.

Study Commission on Global Education, The United States Prepares for Its Future: Global Perspectives in Education, New York: Global Perspectives in Education, Inc. 1987.

Task Force on Teaching as a Profession, A Nation Prepared: Teaching for the 21st Century, New York: Carnegie Forum on Education and the Economy, May 1986.

Tavel, David, ed., Law Studies in the Schools, Toledo, Ohio: University of Toledo College of Education, 1977.

Weis, Lois and Michelle Fine, eds., Beyond Silenced Voices: Class, Race and Gender in United States. Albany, NY: State University of New York Press, 1993.
World Resources Institute, World Resources: 1994-95. New York: Oxford University Press, 1994.

Yankelovich, Daniel, "How the Heart Learns the Public Business," Kettering Review. Winter 1985.

Youngblood, Patricia, Shaping the Environment: Cases and Materials. Albany, NY: Law, Youth and Citizenship Program of the NYS Bar Association and the NYS Education Department and the Citizenship Law-Related Education Program for the Schools of Maryland, Inc. of the Maryland State Bar Association and the Maryland State Education Department, 1990.